

Evidence Received

Change 7: Regional Resource Management Plan Outstanding Water Bodies

November 2020

List of Evidence Received in Numeric order

Evidence # / Original Sub #	Organisation Name – Individuals Name
1/3	Brownrigg Agriculture – Bridget Margerison
2/5	Department of Conservation – Matthew William Brady
3/5	Department of Conservation – Maggie Rose Burns
4/9	Federated Farmers – Peter Matich
5/9	Federated Farmers – Rhea Dasent
6/12	Genesis Energy – Dr Philip Hunter Mitchell
7/12	Genesis Energy – Gareth Gray
8/15	Hawkes Bay Regional Council – Ceri Edmonds
9/19	Horticulture New Zealand – Charlotte Josephine Mary Drury
10/19	Horticulture New Zealand – Michelle Kathleen Sands
11/27	Te Taiwhenua O Heretaunga and Ngāti Kahungunu Iwi Incorporated – Maurice Wayne Black
12/27	Te Taiwhenua O Heretaunga and Ngāti Kahungunu Iwi Incorporated – Marei Boston Apatu
13/27	Te Taiwhenua O Heretaunga and Ngāti Kahungunu Iwi Incorporated – Appendix 1
14/27	Te Taiwhenua O Heretaunga and Ngāti Kahungunu Iwi Incorporated – Appendix 2
15/27	Te Taiwhenua O Heretaunga and Ngāti Kahungunu Iwi Incorporated – Appendix 3
16/32	Pernod Ricard – Mark St Clair
17/33	Ravensdown Limited – Carmen Wendy Taylor
18/33	Ravensdown Limited – Anna Mary Wilkes
19/36	Timberlands Limited – Christine Bridget Robson

Evidence # / Original Sub #	Organisation Name – Individuals Name
20/37	Trustpower Limited – Nicola Irene Foran
21/41	Oil Companies – Sean Stirling
22/42	Silver Fern Farms Limited- Ethan John Clover

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BROWNRIGG
AGRICULTURE

**SUBMISSION – PROPOSED PLAN CHANGE 7 TO THE RRMP
 BROWNRIGG AGRICULTURE LIMITED**

Company name	Brownrigg Agriculture Group Limited
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Submitter type	Business / Industry

1 INTRODUCTION

My name is Bridget Margerison and I oversee Environmental Resource Management for Brownrigg Agriculture Group Limited (BA). Our submission on PC7 provided an overview of BA as a company and the nature of our farming activities.

BA's primary interest in PC7 relates to Lake Poukawa, given the extent of land that BA either owns or leases around the periphery of the Lake. We do however have some general concerns.

2 GENERAL CONCERNS WITH PC7

Our submission expressed concern regarding the large number of 'outstanding' waterbodies listed in PC7 and the fact that for many of them the Table 2 columns that should have listed and described the significant values were empty. We do not understand how HBRC could decide a waterbody was 'outstanding' when it had not identified the significant values that would make it outstanding.

That is important because the NPSFM 2020 (Policy 8) requires the "significant values" of outstanding waterbodies to be protected.

It does not seem appropriate to now retrofit significant values into PC7 to justify a waterbodies 'outstanding-ness' through a submission process if those values were not known at the time of notification.

We sought a number of changes to PC7 to address our general concerns. As far as I can see the s42A authors have recommended rejecting all of the suggestions we made.

I understand that the s42A authors have recommended that you insert a "Outstanding Water Body Screening Framework" into PC7 (Part 2 and Table 1A). However, "Column 4" in Table 2 of what is now Part 3 of PC7 is still largely empty and for many of the 'outstanding waterbodies' no significant values are listed.

BA asks that as a minimum you apply that screening framework **now** to the 38 supposedly outstanding waterbodies that were included in PC7 when it was notified so that only waterbodies that are truly regionally outstanding remain in PC7 and that the significant values (including cultural and spiritual values) that make them outstanding and which need to be protected are listed in the Plan in a clear and concise manner that users of the Plan can understand.

3 LAKE POUKAWA

BA sought the following relief with regard to Lake Poukawa:

In the Schedule 25 Table 2 Item 6 entry for Lake Poukawa in Part 2 of PC7:

- a) Delete the last paragraph in the "Description of outstanding value(s)" column;*
- b) Delete the fourth line in 'Column 4' which currently states "hydrological";*
- c) Amalgamate and amend the fifth and sixth lines in 'Column 4' to read "Customary cultural activities including tuna (eel) harvesting".*
- d) Any consequential amendments required to other parts of PC7 as a result of the above relief.*

The S42A authors have recommended accepting point (a).

As far as I can tell there was no discussion at all of point (b) in the s42A Report. BA maintains its relief sought for the reasons set out in our submission which were that simply listing the word "hydrological" as a significant value is vague, uncertain and meaningless.

Our point (c) was also rejected but we do not wish to pursue that relief.



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IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of Proposed Plan Change 7 to the
Hawke's Bay Regional Resource
Management Plan

**STATEMENT OF EVIDENCE OF MATTHEW WILLIAM BRADY FOR THE
DIRECTOR-GENERAL OF CONSERVATION**

13 November 2020

Counsel for Director-General of Conservation

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INTRODUCTION

1. My full name is Matthew William Brady, I am currently employed by the Department of Conservation as a Freshwater Technical Advisor.
2. I have been employed by the Department of Conservation since 2006. I have worked as a ranger extensively in freshwater since 2007.
3. From October 2013 to October 2019 I worked as a ranger in the Hawke's Bay District Office, where I was primarily responsible for undertaking freshwater fieldwork, including monitoring of wetland and river birds and freshwater fish. I also was the Department's representative on the TANK working group for Plan Change 9. My involvement in the Outstanding Water Bodies Plan Change 7 was as the Department's representative on the local expert panel.
4. I am engaged by the Director-General to give evidence from a local knowledge perspective from my work as a ranger in Hawke's Bay. My background is as a ranger, but because of my involvement in the monitoring and assessment of some of the water bodies in the Hawke's Bay, I am aware of a broad range of matters concerning the water bodies in which I have worked.

CODE OF CONDUCT

5. I confirm I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014. I have complied with the Code when preparing my written statement of evidence, and will do so when I give oral evidence at the Council hearing.
6. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence.
7. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express

SCOPE

8. My evidence relates to, primarily avian and fish values relating to water bodies in which I have worked.
9. I have been asked to provide evidence in relation to my first-hand knowledge of these water bodies.
10. Other documents that I have used in forming my view are:
 - (i) RiVAS Native fish Hawke's Bay 2012
 - (ii) RiVAS Native Bird life in Hawke's Bay
 - (iii) New Zealand Freshwater Fish Database
 - (iv) Birds New Zealand Bird Count Data
 - (v) Hawke's Bay Regional Council Summary of Values Reports
 - (vi) Hawke's Bay Biodiversity Inventory Current State of Knowledge 2014
 - (vii) McArthur, N.; Hashiba, K. and Lees, D. 2020. State and trends in the abundance and distribution of riverbed-nesting shorebirds on the Tutaekuri, Ngaruroro and Tukituki Rivers
 - (viii) Williams M, Developing monitoring methods for cryptic species: a case study of the Australasian bittern, *Botaurus poiciloptilus*

SCREENING FRAMEWORK

11. The officer's recommendations made in the section 42a report for Plan Change 7, identifying the Outstanding Water Bodies in the Hawke's Bay region align with my first-hand knowledge Hawke's Bay water bodies.
12. The outstanding water body identification screening framework used in identifying the outstanding water bodies as recommended in the

section 42A report seems appropriate in identifying outstanding water bodies. Noting that for the ecological values, whilst using different selection criteria/frameworks, it came to a similar conclusion as the local expert panel. 13 of the 14 water bodies put forward by the local expert panel for ecological values, as outstanding were included in the 15 put forward by the framework developed for this plan change, the exception was the Heretaunga Aquifer.

13. There are 15 water bodies considered outstanding for ecological values (not including sports fisheries). These outstanding values include for macroinvertebrates, regional populations percentage of a specific native bird species, number of threatened species, fish values and threatened plant values.
14. Hawke's Bay has a diverse range of freshwater habitats and a large variety of species inhabiting them.

ECOLOGICAL VALUES OF HAWKE'S BAY WATER BODIES

The Ngaruroro River

15. The Ngaruroro River is identified in Table 2, Schedule 25 of Plan Change 7 as ID #18. I have particular knowledge of this river from monitoring work including the Ngaruroro River birdlife from the Whanawhana cableway to state highway 2 having organised river bird Surveys on that section of the river in November 2018. High densities of banded dotterel (1193 birds) were counted. Subsequent surveys in 2019 commissioned by the regional council found 916 banded dotterel on the Ngaruroro and 1112 on the Tukituki and its tributaries. The accompanying report (McArthur, N. 2020) states "The Tukituki, Ngaruroro and Tutaekuri Rivers respectively support the second, third and twelfth largest single-river populations of this species in New Zealand". It also states "The mean number of banded dotterels counted per kilometre on these Hawke's Bay rivers is almost twice the national average". Based on these significant avifauna values I agree that the Ngaruroro River (#18) meets the screening framework criteria and should be identified as an outstanding water body.

Lake Whatuma, Lake Poukawa and Pekapeka Swamp, and Te Whanganui-a-Orotū (Ahuriri Estuary)

16. I was also involved in region wide bittern surveys that took place in the spring of 2018 and I routinely carried out monitoring on Lake Whatuma (#11) and Te Whanganui-a-Orotū (Ahuriri Estuary) (#30). The two water bodies listed as outstanding due to high population percentage of bittern. This is consistent with my knowledge of the region and field notes for bittern monitoring. Lake Whatuma, which routinely has 12 booming males. (Williams, E 2016) recorded a maximum of 12 booming males in the 2014 season. Lake Poukawa and Pekapeka Swamp (#6) had 5 and 6 booming males respectively in 2018 surveys I conducted. Both Lake Whatuma and Lake Poukawa sites are listed by the Department as category A as Bittern Management Units. John Cheyne 2011, recorded 31 wetland bird species. Cheyne summarises *“The Lake Poukawa wetland complex is a nationally significant flocking site for shoveler duck and regionally significant for dabchick, bittern, pied stilt and banded dotterel.”* Bittern are listed as nationally critical with an estimated New Zealand population of less than 1000 birds worldwide less than 2000. Based on these significant avifauna values I agree that the above water bodies meet the screening framework criteria and should be identified as outstanding water bodies.

Kaweka Lakes – Rotoroa and Rototuna

17. I have carried out fish monitoring in the Kaweka Lakes (lakes Rototuna and Rotoroa (#5)) in November 2014. The Koaro found in lake Rotoroa were the highest density I know of in Hawke's Bay and were unique in the region as they are completely lake locked. Koaro (*Galaxias brevipinnis*) are a white bait species and usually spend part the juvenile phase of their life cycle in the ocean or use a lake as a surrogate ocean before moving into the rivers or streams, in this case 100% of the koaro's life cycle is in the lake. According to NIWA's Assessment of Lakes in the Hawke's Bay Region Using Lake SPI 2017, the lakes are also in near pristine condition with Rototuna have the best Lake submerged plant Index (SPI) in Hawke's bay with a score of 79 (excellent). Based on the pristine condition of these lakes and the very

high densities of native fish species I agree that the Kaweka Lakes meet the screening framework criteria and should be identified as outstanding water bodies.

Water bodies with wetland values

18. Wetland and estuaries often have high biodiversity values and are feeding and breeding grounds for a variety of species. As such these areas frequently have relatively high species counts and high regional species percentages. A number of waterbodies, or a significant proportion of a waterbody (i.e. lake margins), included as outstanding in schedule 25, can be considered as a wetland. Of the 15 waterbodies included for ecological reasons 4 are noted on Freshwater Environments of New Zealand (FENZ) as wetlands or have a significant wetland component this includes, Lake Puakowa and Pekapeka Swamp, Whakakī Lake – Te Paeroa Lagoon – Wairau Lagoon and wetlands (#10), Lake Whatuma and Ngamatea East Swamp (#17). Other sites such as the Kaweka Lakes also have significant wetland aspects to them. Based on the significant wetland values of these water bodies, I consider that they meet the screening framework criteria and support their inclusion as outstanding water bodies.

Coastal water bodies

19. Water bodies that may be considered coastal waters have also been included in the list of outstanding waterbodies. I consider this is appropriate, acknowledging the connectivity of the fresh and saline waters. Of the remaining waterbodies included for ecological values, 3 could be considered coastal waters or in the marine coastal area. This would include Maungawhio Lagoon, Porangahau River and Estuary, Te Whanganui a Orotu (Ahuriri Estuary).

CONCLUSION

20. For these reasons I support the recommendations made by the officer in the Section 42A report appendix A Schedule 25.



Matthew William Brady

Dated this 13th day of November 2020

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of Proposed Plan Change 7 to the
Hawke's Bay Regional Resource
Management Plan

**STATEMENT OF EVIDENCE OF MAGGIE ROSE BURNS FOR THE
DIRECTOR-GENERAL OF CONSERVATION**

13 NOVEMBER 2020

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1. INTRODUCTION

- 1.1 My name is Maggie Rose Burns.
- 1.2 I hold the qualification of Bachelor of Environmental Planning from the University of Waikato.
- 1.3 I have been employed by the Department of Conservation as a resource management planner since 2018.
- 1.4 My work with the Department of Conservation has involved assessing draft and proposed regional policy statements and regional and district plans and preparing submissions on policy statements and plan content.
- 1.5 I am experienced in assessing and submitting on resource consents.
- 1.6 I am engaged by the Director-General of Conservation (the Director-General) to provide evidence for the Director-General's submission and further submissions on proposed Plan Change 7 Outstanding Water Bodies (Plan Change 7).

2. CODE OF CONDUCT

- 2.1 I confirm I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my written statement of evidence and will do so when I give oral evidence before the Commissioners.
- 2.2 The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence.
- 2.3 Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

3. SCOPE

3.1 My evidence covers the following matters:

- a) Statutory/policy framework
- b) Screening framework and criteria
- c) Identifying economic uses
- d) Definitions
- e) Relevant objectives and policies.

3.2 In preparing this evidence I have read the Officers' hearing report for Plan Change 7 – outstanding water bodies as required by Section 42A of the Resource Management Act 1991 (RMA) on these matters.

4. RELEVANT POLICY GUIDANCE

4.1 Plan Change 7 must give effect to higher order documents including the National Policy Statement for Freshwater Management 2020 (NPSFM 2020) and New Zealand Coastal Policy Statement 2010 (NZCPS 2010) to achieve the purpose of the RMA.

4.2 I acknowledge that Plan Change 7 was intended to give effect to the 2014 National Policy Statement for Freshwater Management (as amended in 2017) and that the new NPSFM 2020 has come into effect 'mid-process'. In the circumstances, I am of the view that the NPSFM 2020 should be given effect to as much as possible through the scope of Plan Change 7 and submissions on the basis that the NPSFM 2020 is the new national direction moving forward.

Part 2 of the Resource Management Act 1991 (RMA)

4.3 Section 61 (1) (b) requires regional council to prepare and change its regional policy statement in accordance with the provisions of Part 2, including Section 6, 7 and 8.

4.4 Plan Change 7 must recognise and provide for the matters of national importance listed in Section 6 of the RMA. The following aspects of Section 6 are particularly relevant to Plan Change 7:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area),*

wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:

- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*
- (e) The protection of historic heritage from inappropriate subdivision, use, and development*

4.5 Plan Change 7 provides a mechanism to ensure protection of the values that make a water body significant and give effect to Section 6 of the RMA. These include the above aspects.

4.6 Section 7 of the RMA includes other matters that Plan Change 7 shall have particular regard to. For Plan Change 7, the following matters are relevant:

- a) Kaitiakitanga*
- c) The maintenance and enhancement of amenity values*
- d) Intrinsic values of ecosystems*
- f) Maintenance and enhancement of the quality of the environment*
- h) The protection of the habitat of trout and salmon*

4.7 Section 8 of the RMA requires the proposed plan to take into account the principles of the Treaty of Waitangi.

National Policy Statement for Freshwater Management 2020

4.8 The National Policy Statement for Freshwater Management 2020 (NPSFM) came into effect on 3 September 2020 and provides policy direction for local and regional authorities on freshwater management.

4.9 I note the NPSFM 2020 came into effect after Plan Change 7 was evaluated under Section 32 of the RMA and notified to give effect to the National Policy Statement for Freshwater Management 2014 (amended 2017).

4.10 The NPSFM 2020 centres around the fundamental concept of Te Mana o te Wai. Te Mana o te Wai refers to the fundamental importance of the health of water for the health and wellbeing of the wider environment. Te Mana o Te Wai encompasses six principles: Mana whakahaere, Kaitiakitanga, Manaakitanga, Governance, Stewardship and Care and Respect. These six principles relate to the role of tangata whenua and other New Zealanders in the management of freshwater.

4.11 Objective 2.1 of the NPSFM 2020 is to ensure that natural and physical resources are managed in a way that prioritises first the health and wellbeing of waterbodies and freshwater ecosystems, second the health needs of people (such as drinking water) and third, the ability of people and communities to provide for their social economic, and cultural wellbeing, now and in the future.

4.12 Local authorities must give effect to the NPSFM 2020 ‘as soon as reasonably practicable’ with a maximum timeframe for regional council to notify any changes required to give effect to the NPSFM 2020 prior to 31 December 2024. I consider that Plan Change 7 is therefore required to give effect to the NPSFM 2020 as much as possible through the scope of the plan change and submissions.

4.13 Policy 8 of the NPSFM 2020 is particularly relevant to Plan Change 7:

Policy 8: The significant values of outstanding water bodies are protected

4.14 The term ‘protection’ where it relates to a directive in policy affords a high level of priority and protection of outstanding water bodies (OWB), particularly where values relate to the health and wellbeing of water bodies and freshwater ecosystems as the top priority for hierarchy of obligations in Te Mana o te Wai.

4.15 The implementation of Plan Change 7 also provides a mechanism for giving effect to a number of other policies in the NPSFM 2020 in that the associated significant values are protected through the Plan Change 7 framework. Policies 9 (the habitats of indigenous freshwater species are protected) and 10 (the habitat of trout and salmon is protected, insofar as this is consistent with Policy 9) are

relevant as they relate to the significant values in the proposed screening framework.

New Zealand Coastal Policy Statement 2010

- 4.16 The New Zealand Coastal Policy Statement 2010 (NZCPS) applies to the coastal environment within the region. The evidence of Mr Brady notes that Plan Change 7 lists a number of coastal water bodies as outstanding, including the Maungawhio Lagoon, Porangahau River Estuary, and Te Whanganui-a-Orotu (Ahuriri Estuary).¹
- 4.17 The Hawke's Bay Regional Resource Management Plan must give effect to the NZCPS 2010. Plan Change 7 does provide a mechanism for partly giving effect to Policies 11 (indigenous biodiversity), 13 (natural character), 15 (Outstanding Natural Features and Landscapes) and 17 (Historic Heritage identification and protection). Given the interconnected nature of freshwater and coastal waters, I consider it appropriate to prescribe the same level of protection to coastal waterbodies that meet the criteria of an 'outstanding water body.'

5. IDENTIFYING ECONOMIC USES

- 5.1 The question of whether economic or consumptive uses can be considered as a 'significant' or 'outstanding' value in relation to OWB has been contested throughout the Plan Change 7 process.
- 5.2 The staff report recommends continuing to exclude economic and consumptive uses as outstanding values from Plan Change 7. I agree with this recommendation. I note however that paragraph 187 of the staff report states:

“Notwithstanding, while the NPSFM never intended for economic and consumptive use values to be classed as outstanding, it's current wording theoretically does not preclude their inclusion if the panel wishes to do so.”

- 5.3 The hierarchy of obligations in the NPSFM 2020 and Te Mana o te Wai puts the health and wellbeing of waterbodies and freshwater

¹ Para 19 – EIC of Mr Matthew Brady

ecosystems above the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future. I therefore disagree with the reporting officer's comment that the wording in the NSPFM 2020 does not preclude the inclusion of economic or consumptive uses if the panel wishes to do so. I consider it would be inconsistent with this hierarchy and the objective of the NPSFM 2020 to include economic or consumptive uses as an outstanding or significant value in Schedule 25 of Plan Change 7.

6. SCREENING FRAMEWORK AND CRITERIA

- 6.1 The Director-General's submission seeks that OWB that are not identified in Schedule 25 but meet the relevant criteria should also be considered as outstanding. The Director-General's submission also considered that a framework for inclusion of additional OWB is required to ensure additional water bodies can be added to the schedule if they meet the criteria in the future.
- 6.2 The staff report has accepted in part these submission points and suggested an amendment to Schedule 25 to include an OWB identification screening framework.
- 6.3 I agree with the staff report recommendation.
- 6.4 I support the addition of the screening framework into Schedule 25 and the criteria itself. The criteria are based on a robust identification process which has informed the current schedule of OWB, specifically as it is consistent with the local expert panel recommendations as noted in evidence from Mr Brady²
- 6.5 The NPSFM 2020 does not set out a specific process for identifying OWB. Te Mana o te Wai provides a clear objective and hierarchy which ensures the health and wellbeing of waterbodies and freshwater ecosystems are of highest priority.

^{2 2} Para 12 – EIC of Mr Matthew Brady

7. DEFINITIONS

New Definition of 'Outstanding' and 'Outstanding water body'

- 7.1 The Director-General's submission supports the inclusion of a new definition of 'Outstanding Water Body,' however, requests amendments to include 'wetlands' within the definition. The Director-General's submission also supports the inclusion of a new definition for 'outstanding' and requests this is retained as notified.
- 7.2 The staff report recommends that the definition of 'outstanding' and 'outstanding water bodies' are retained as notified.
- 7.3 The staff report has not directly addressed the addition of 'and wetlands' to the 'outstanding water body' definition, however, I consider that 'freshwater bodies' within the definition covers wetlands within the definition. I therefore agree with the staff report recommendation not to include this amendment.
- 7.4 The notified definition is also consistent with the definition in the NPSFM 2020.
- 7.5 I agree with the reporting officer's assessment of the inclusion of the proposed definition for 'outstanding.' The definition provides clarity that being outstanding is a high bar, as well as acknowledging identifying outstandingness at a regional scale.

New Definition 'Outstanding Value' and 'Significant Value'

- 7.6 The Director-General's submission requests two additional definitions to Plan Change 7 of 'outstanding value' and 'significant value.'
- 7.7 The staff report has not directly addressed this submission point, however, has not recommended the addition of these definitions to Plan Change 7.
- 7.8 I agree with the staff report recommendations.
- 7.9 The proposed addition of the screening framework to Schedule 25 provides additional certainty and description of what constitutes an

outstanding value. I therefore consider that additional definitions are not necessary as part of Plan Change 7.

8. OBJECTIVES AND POLICIES

Objective LW 1

- 8.1 The Director-General's submission supports the proposed amendments to Objective LW1 and seeks it is retained as notified.
- 8.2 The staff report agrees with this recommendation and recommends that Objective LW1 is retained as notified.
- 8.3 I agree with the staff report recommendation.
- 8.4 The objective is consistent with the intent of Plan Change 7 and ensure the plan is clear and consistent by referring to Schedule 25. It also increases consistency with the NPSFM 2020 by referring to outstanding and significant values of OWB as is consistent with Policy 8 of the National Policy Statement for Freshwater Management which refers to significant values of OWB.

Policy LW1 cC

- 8.5 The Director-General's submission opposed Policy LW1 cC and requested the wording is amended as follows:

'Assess the outstanding water bodies identified in Schedule 25 to determine the significant or outstanding values...'

- 8.6 I note that the original submission was lodged prior to the NPSFM 2020 coming into effect in September 2020. Policy 8 of the NPSFM 2020 refers to significant values of OWB. The notified wording was therefore consistent with this policy direction.
- 8.7 The staff report has rejected this wording change and has recommended deletion of Policy LW1 cC noting that the high level guidance in Policy LW1 enable the future catchment plans to identify a list of significant values and develop targeted policies depending what is appropriate for an individual waterbody.

- 8.8 I note that further amendment is required to the Hawke's Bay Regional Resource Management Plan to ensure the plan is wholly consistent with the new NPSFM 2020. Many of these required amendments are outside of the scope Plan Change 7 and fundamental changes to the policy framework may be required to ensure Te Mana o te Wai is given effect to.
- 8.9 I agree that the process of identifying significant values requires a more comprehensive collaborative process.
- 8.10 The NPSFM 2020 also notes the importance of working collaboratively with Tangata Whenua and other stakeholders and the creation of a long-term vision to ensure a robust process.
- 8.11 I therefore agree with the staff report recommendation to delete this policy, although noting that the wider policy framework may require amendment to ensure it gives effect to the NPSFM 2020 which is outside of the current scope of Plan Change 7.

Policy LW3A

- 8.12 The Director-General's submission opposed Policy LW3A to amend the wording as follows:

'...a consent authority must ~~have regard to:~~

Not grant a consent where there is a more than minor effect on ~~the extent to which the activity would protect~~ the outstanding value (s)

Not grant a consent where there is more than minor effect ~~on~~ [sic] ~~the extent to which the activity would protect~~ the significant values

- 8.13 The staff report recommends that the policy is amended to a 'take into account' policy as opposed to a 'have regard to.'
- 8.14 I disagree with the staff report recommendation.
- 8.15 I consider that the notified and further amended wording of Policy LW3A does not provide adequate protection of outstanding and

significant values of OWB and is not in line with the intent of Plan Change 7. The staff report notes that the change to 'take into account' provides a less onerous requirement than 'have regard to'. In my opinion this is inappropriate considering the high standard of 'outstanding' and the associated values.

- 8.16 If an application is to occur which may have adverse effects on outstanding or significant values, effects should be avoided. A 'take into account' directive does not provide any certainty that outstanding water bodies will be protected to the extent appropriate for such a high bar of requirement.
- 8.17 Policy 8 of the NPSFM 2020 requires that significant values of outstanding water bodies are protected. 'Protection' as a wording directive affords high priority to this policy. The current wording does not provide an appropriate level of protection and is therefore inconsistent with the NPSFM 2020.

Policy C1

- 8.18 The Director-General's submission opposed Policy LW1 cC and requested the wording is amended as follows:

identify the significant or outstanding values of that outstanding waterbody....'

- 8.19 I note that the original submission was lodged prior to the NPSFM 2020 coming into effect in September 2020. Policy 8 of the National Policy Statement for Freshwater Management 2020 refers to significant values of OWB. The notified wording was therefore consistent with this policy direction.
- 8.20 The staff report recommendation amends the policy to give better effect to NZCPS 2010 policy which are more rigid than those relating to freshwater.
- 8.21 Since the NZCPS 2010 has more directive avoid policies, particularly relating to Policy 11 (indigenous biodiversity), Policy 13 (Natural Character) and Policy 15 (Outstanding Natural Features and Landscapes). I therefore consider the proposed amendments appropriate as they provide clarity that the NZCPS 2010 is afforded

preference in relation to coastal waters, and in any case, does not allow a more lenient approach in protecting 'outstanding' water bodies. This is particularly important where significant values relate to indigenous biodiversity, natural character or outstanding natural features and landscapes.

8.22 I therefore agree with the staff report recommendation and the proposed amendments to Policy C1.

Objective 11

8.23 The Director-General's submission supports the proposed amendments to Objective 11 and seeks it is retained as notified.

8.24 The staff report agrees with this recommendation and recommends that Objective L11 is retained as notified.

8.25 I agree with the staff report recommendation.

8.26 Objective 11 ensures clarity that the region's OWB are protected through an integrated approach with freshwater and coastal waterbodies necessary to ensure the plan gives effect to the NPSFM 2020 and NZCPS 2010. This objective also provides clarity by referring specifically to Schedule 25.

9. CONCLUSION

9.1 Plan Change 7 provides a mechanism to partly give effect to the NPSFM 2020, particularly Policy 8. It is important to note that although the plan change was notified prior to the NPSFM 2020 becoming operative, it should be given effect to as much as is possible through the scope of the submissions. I also note that there is further work to do to give full effect to the NPSFM 2020.

9.2 I predominantly agree with the reporting officer's recommendations, particularly regarding the addition of the screening framework, the retention of notified definitions and proposed amendments to most objectives and policies. I disagree with the reporting officer's recommendation regarding Policy LW3A and I consider that the

proposed wording needs to be stronger to ensure protection of OWB to be consistent with the NPSFM

- 9.3 Further changes to Hawke's Bay Regional Resource Management Plan are required to wholly give effect to the NPSFM 2020, however, I respect that many of these changes are outside of the scope of Plan Change 7 and a more robust, collaborative process is required.



Maggie Rose Burns

13 November 2020

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of the hearing of submissions on
Proposed Plan Change 7 – Outstanding Water Bodies
to the Hawkes Bay Regional Resource Management
Plan

BY FEDERATED FARMERS OF NEW ZEALAND

TO Hawkes Bay Regional Council

**Federated Farmers
Statement of Evidence
Peter Matich**

November 2020

Introduction

1. My name is Peter Matich and I am a Senior Regional Policy Advisor for Federated Farmers of New Zealand. My role is to provide planning advice related to local government and resource management matters on behalf of the Federation's members.
2. I hold a Bachelor of Planning Degree and a Bachelor of Arts Degree from the University of Auckland and a Master of Environmental Studies Degree from Victoria University of Wellington. I have 29 years' experience in resource management planning in New Zealand in a variety of public and private sector roles, including over 20 years in local government roles. I am a Member of the New Zealand Planning Institute.
3. I have been involved in preparation, submission, appeal mediation and evidence-presentation processes on behalf of Federated Farmers since 2018. This includes Hawke's Bay specific process such as the Special Tribunal's lower catchment Water Conservation Order hearing in 2019, and Hawkes Bay Regional Council's freshwater plan review for the Tūtaekurī, Ahuriri, Ngaruroro, Karamū ('TANK') river catchments.
4. I have read, and am familiar with, the Environment Court's Environment Court's Practice Note 2014 for expert witnesses. As an employee of Federated Farmers, I acknowledge that I may not be considered as an independent witness in terms of the Court's practice note. Nevertheless, I confine my analysis primarily to planning matters, and endeavour to view matters from the point of view of a planning expert.
5. Other than where I state that I am relying on the evidence of another person or publication, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence and statement structure

6. I have been asked by my employer, Federated Farmers, to provide evidence in relation to the planning framework that applies to *Proposed Plan Change 7 – Outstanding Water Bodies* ('PC7').
7. Federated Farmers lodged a submission and further submissions on PC7. These are included as Attachments 1 and 2 to this statement.
8. Federated Farmers' position (from its submission and further submissions) is summarized as follows:

- i. In the first instance, the large number of Outstanding Water Bodies ('OWB's) identified in Schedule 25 of PC7, and the large size of some of them (Heretaunga and Ruataniwha Aquifers, and all five major Hawkes Bay Rivers), suggests that the criteria for 'outstandingness' are too broad and/or the threshold for 'outstandingness' is too low. This not only undermines the concept of something being able to be recognised as 'outstanding', but it creates a situation which encourages needless additional regulation for little or no extra environmental benefit. These criteria should be more specific so that the threshold for inclusion as an OWB is higher. Only pristine waterbodies with a low level of human use should be outstanding.
- ii. In the second instance, and without prejudice as to the preferred relief above, if water bodies that have high human land and water use are found to be outstanding, then additional criteria for human uses (such as economic and consumptive use) should be included as a potential outstanding or significant value, so that land and water use for farming will be anticipated and provided for within the OWB regime.
- iii. Further, the prioritization between 'outstanding values' and 'significant values' adds unnecessary confusion to the scheme of PC7. The *National Policy Statement for Freshwater Management* ('NPSFM') only requires protection of *significant values* of OWBs', therefore the nomenclature of these needs to be simplified to conform with the NPSFM.
- iv. In addition, the OWBs in Schedule 25 of PC7 have been identified with imperfect information, which undermines public confidence in the integrity of PC7. Several OWBs do not contain any information on significant values. The policies do not contain any reference to assessment material used to inform the identification of OWBs, and the notified version of PC7 contains no framework for assessing further potential OWBs. The recommendation of the Council's reporting officer for a screening framework falls short of the mark for remedying this.
- v. The policy framework in PC7 does not manage tensions between OWB protection and the right to take and use water under RMA section 14(3)(b). The policy framework could be amended to exclude activities and provide "allowed status" where effects will be minor including for RMA Section 14(3)(b) takes. The policy for *protection* of significant values of OWBs should include ability to *avoid, remedy or mitigate* adverse

effects as appropriate. Due to the widely-varying range of values applicable to OWBs, it will be impracticable to simply *avoid* adverse effects in all instances.

- vi. A number of amendments to individual provisions are sought. The detail of these is contained in the table in Attachment 3 to this statement.
9. My statement addresses the recommended decisions on submissions and further submissions set out in the Regional Council's section 42A report that accompanies the reporting officers' recommended decisions version of PC7. I address how objectives and policies of PC7 measure up to statutory planning requirements. The Outstanding Water Body ('OWB') items listed in Schedule 25 of PC7 are addressed in the evidence of Rhea Dasent.
10. I do not support the some of the recommendations of the reporting officer in the report entitled "Hawke's (*sic*) Bay Regional Resource Management Plan Proposed Plan Change 7 – Outstanding Water Bodies Officer's s42A Hearing report". I address these throughout my statement where relevant.

Statutory considerations

Resource Management Act 1991 ('RMA')

11. The purpose of the RMA is sustainable management of natural and physical resources (Section 5).
12. The RMA contains provisions for a range of planning instruments with varying degrees of integration with each other. These are namely:
- a National Coastal Policy Statement ('NZCPS'), promulgated by Government for managing activities in the coastal marine area ('CMA') and the coastal environment,
 - a range of National Policy Statements ('NPS's) on specific matters promulgated by Government,
 - National Environmental Standards ('NES's), which are mandatory nationwide rules on specific matters promulgated by Government, including the *Resource Management (National Environmental Standards for Freshwater) Regulations 2020* ('NESFW'),
 - Regional Policy Statements (RPS's) promulgated by regional councils, which both regional coastal plans, regional plans and district plans have to be consistent with,
 - Regional Coastal Plans ('RCP's) promulgated by regional councils for managing activities in the CMA and the *coastal environment*. These cannot be inconsistent with the NZCPS.

- Regional Plans promulgated by regional councils. These cannot be inconsistent with, and must give effect to, the NZCPS, any relevant NPS, NES and RPS.
- District Plans promulgated by district councils. These cannot be inconsistent with, and must give effect to the NZCPS, any relevant NPS, NES and RPS.
- Water Conservation Orders for protection of specific nationally outstanding water bodies, which are confirmed or declined after an application and submission process by the Minister for the Environment.

13. In all the above cases, a regional (or district) plan, or RCP rule can only be more lenient where a relevant NES expressly enables this. No rules apply in PC7. Nevertheless, the objectives and policies in PC7 are anticipated to give rise to future regional plan rules. To the extent enabled by submissions and further submissions, there is an opportunity to address the objective and policy framework to set up an appropriate level of integration with any relevant NES.
14. In terms of managing land use, restrictions on land use and development (in RMA Section 9) require that unless NESs, regional (or district) plan rules expressly allow activities without consent, then case-by-case consideration of all such activities by way of individual resource consent applications is required.
15. In regard to use of the CMA (RMA Sections 12, 12A and 12B), restrictions require that unless NES or RCP rules expressly allow activities without consent, then case-by-case consideration of all such activities by way of individual resource consent applications is required. This is the 'fall-back' mechanism available to the Council where RCP rules have not been established.
16. As far as managing water goes, use of beds of lakes and rivers (RMA Section 13), use of water (RMA Section 14), and discharges (RMA Section 15). These restrictions (similarly) require that unless NESs or RCP rules expressly allow activities without consent, then case-by-case consideration of all such activities by way of individual resource consent applications is required.
17. There are special provisions relating to the CMA, which require resource consent for all discharges (RMA Section 15A), or for discharges from ships and other vessels where RCP or regional plan or government regulations permit or resource consent is obtained (RMA Section 15B). Discharge of radioactive waste or other radioactive matter in the CMA is prohibited under RMA Section 15C.
18. Policy LW3A in PC7 would apply to any *discretionary activity* or a *non-complying activity* in a regional plan for those activities controlled by

RMA Sections 13, 14 and 15, that involves an OWB where an outstanding value or a significant value has been described in Schedule 25 of PC7.

19. Policy C2 in PC7 would apply to any activity in a RCP or regional plan that requires a resource consent involving an OWB in the *coastal environment*. This includes matters controlled by RMA Sections 13, 14 and 15 deemed to be within the *coastal environment* (as set out under the NZCPS).
20. In relation to both Policy LW3A and Policy C2, this will affect any new or changed take, use, damming or diversion of water; any new or changed discharge into water; any new or changed discharge to land; any new structures on the bed; and new or changed disturbance to the bed. This has the potential to affect hundreds of farms that are within the geographical boundaries of identified OWBs.

New Zealand Coastal Policy Statement 2010 ('NZCPS') and HBRC Coastal Environment Plan

21. In Policy 1(2) the NZCPS, the *coastal environment* is recognised as including:
- (a) *the coastal marine area;*
 - (b) *islands within the coastal marine area;*
 - (c) *areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
 - (d) *areas at risk from coastal hazards;*
 - (e) *coastal vegetation and the habitat of indigenous coastal species including migratory birds;*
 - (f) *elements and features that contribute to the natural character, landscape, visual qualities or amenity values;*
 - (g) *items of cultural and historic heritage in the coastal marine area or on the coast;*
 - (h) *inter-related coastal marine and terrestrial systems, including the intertidal zone; and*
 - (i) *physical resources and built facilities, including infrastructure, that have modified the coastal environment.*
22. As such, the *coastal environment* encompasses a landward side of the CMA, although exactly where the landward boundary falls can become a matter of interpretation.
23. In this regard, the relevant RCP is the *Hawkes Bay Coastal Environment Plan*. This maps a 'coastal margin', but in its glossary of definitions, stops short of calling this the landward boundary of the coastal environment, thus:

“ Coastal environment

means an environment in which the coast is a significant element or part, and includes:

- (a) the coastal marine area;*
- (b) any areas identified as being affected by, or potentially affected by, coastal flooding or coastal erosion;*
- (c) any of the following:*
 - (i) tidal waters and the land above mean high water springs;*
 - (ii) dunes;*
 - (iii) beaches;*
 - (iv) areas of coastal vegetation and coastal associated fauna;*
 - (v) coastal cliffs*
 - (vi) salt marshes;*
 - (vii) coastal wetlands, including estuaries; and*
 - (viii) areas where activities occur or may occur which have a direct physical connection with, or impact on, the coast.*

For the purposes of this Plan, the coastal environment comprises all of the coastal marine area of Hawke's Bay and the coastal margin. The inland boundary of the coastal margin and coastal environment is as shown on the planning maps in this Plan.¹⁷⁷

24. Footnote 177 to the above definition unfortunately does not resolve this uncertainty. It states:

“NOTE: The term ‘Coastal Environment’ is not defined in the RMA but is used in s6 of the RMA and in the NZCPS. It was defined under the Town and Country Planning Act 1977 as an environment in which the coast is a significant part or element. The Environment Court has held that the coastal environment is usually accepted as extending to the crest of the nearest skyline. In some cases, the coastal environment for the purposes of s6 and/or the NZCPS may extend inland of the coastal environment as shown on the planning maps. However, the provisions of this Plan only apply seaward of the line shown on the planning maps.”

25. The exact same definition and footnote appear in the operative Regional Resource Management Plan (‘RRMP’). I can only conclude that the specific locations within *coastal environment* that OBJ 11 and Policy C1 and Policy C2 are intended to apply to, is very much a matter of subjective interpretation.

26. Further, the following provisions in the NZCPS that the Council's reporting officer has cited as relevant to PC7¹, all involve a judgement about the extent of the *coastal environment*, raising the same concerns about uncertainty, namely:
- Objective 1 – Safeguard integrity, form, functioning resilience of the coastal environment,
 - Objective 2 – preserve natural character of the coastal environment,
 - Policy 4 – integrated management of natural and physical resources of the coastal environment,
 - Policy 11 - protect indigenous biological diversity within the coastal environment,
 - Policy 13 - preserve natural character within the coastal environment,
 - Policy 15 - protect natural features and landscapes within the coastal environment,
 - Policy 17 - protect historic heritage within the coastal environment;
27. Also, as noted by the Council's reporting officer, there is no requirement in the NZCPS to identify outstanding coastal water bodies². What is more (as mentioned previously), the definition of "water body" in the RMA specifically excludes freshwater that is located in the CMA.
28. One possible resolution for this uncertainty could be to map the *coastal environment* that PC7 is intended to apply to, and delete any identified 'OWBs' in the CMA. If the coastal environment is to be mapped, then the definition of 'outstanding water body' ought to include reference to the:
- "... freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 ... including, water bodies within 'coastal environment' where this is mapped in the Regional Resource Management Plan".
29. Alternatively, OBJ 11, Policy C1, Policy C2 and items in Schedule 25 which are within the CMA, could all be deleted from PC7. If this was done, the definition of 'outstanding water body' ought to be amended to exclude water bodies within the CMA because the Resource Management Act ('RMA') definition of *water body*, relates to fresh water or geothermal water that is not located within the CMA.

¹ Para 109 Officers s42A Hearing report

² Para 107 Officers s42A Hearing report

National Policy Statement for Freshwater Management ('NPSFM')

30. The reporting officer addresses various iterations of the NPSFM in the RMA Section 42A report – the most salient point being that while PC7 was prepared under the NPSFM 2017, the Council now should take an opportunity to further amend PC7 to align with the NPSFM 2020 version, as long such amendments fall within the scope of any submissions³. I address various examples in this section of my evidence.
31. A draft NPSFM promulgated in 2006 was referred to a Board of Inquiry in 2008. This version did not come into effect and therefore is of little relevance. The NPSFM 2011 was the first version that came into effect.
32. The 2014 re-write introduced *Te Mana o te Wai* as a concept, and also introduced a *National Objective Framework* ('NOF') of various water quality attributes with 4 quality bands that regional councils could adopt. The NOF includes a *national bottom line*, where improvement had to be made over time if water quality is below such line. The 2017 version introduced a national target for water quality improvement, along with a requirement to seek to halt declining trends in water quality, whilst retaining the *national bottom line* concept.
33. The 2020 version is a fairly significant revision of the 2017 version. It introduces a hierarchy of obligations that prioritise the health and well-being of water bodies and freshwater ecosystems as a top-order priority, followed by the health needs of people (such as drinking water), followed by the ability of people and communities to provide for their social, economic and cultural well-being now and in the future (Clause 1.3).
34. Federated Farmers' submission and further submissions seek recognition of primary production values as outstanding values for substantial waterbodies such as the Heretaunga and Ruataniwha Aquifers, and the larger rivers and their extensive networks of tributaries that flow through huge tracts of pastorally farmed land, including the Karamu, Mohaka, Ngaruroro, Porangahau, Tukituki Tutaekuri, Taruarau, Waiau, Waipawa and Wairoa Rivers and their tributaries. More information in support of these requests is set forth in the evidence of Rhea Dasent.
35. The hierarchy between *outstanding values* and *significant values* in PC7 is problematic if primary production values are automatically relegated for large areas drawing in thousands of farming operations. Under Policy LW3A, farming activities that may trigger resource

³ Paras 28, 85 and 91 Officers s42A Hearing report

consent requirements⁴, risk unnecessary extra costs and delays in being inappropriately captured in processes requiring assessments of impacts on outstanding water bodies for little or no environmental benefit.

36. I agree with the Council’s reporting officer that “*the NPSFM is not clear on whether the types of values that can be identified as outstanding for NPSFM purposes are restricted to intrinsic and non-consumptive uses, or if they can include consumptive and economic use values such as irrigation, hydro-generation and tourism*”⁵.
37. However, in my opinion, the prioritisation of matters in section 2.1 of the NPSFM 2020, does not mean that significant economic and consumptive values should have a lesser recognition than other types of significant values. Rather, it means that where there is a conflict in the protection of such significant values, that the health and well-being of water bodies and freshwater ecosystems is a top-order priority, followed by the health needs of people, and then consumptive values.
38. For example, if *outstanding water quality* was a significant value, then where significantly high water quality is maintained within an outstanding water body, and the land within its catchment is farmed by hundreds of farmers who rely on the water resource to enable their economic well-being (to the point where the consumptive value is significant), this is the type of situation where there could well be no conflict between such significant values (all other things being equal). It follows from this that such values could have equal status.
39. I do not agree with the Council reporting officer’s conclusion that the absence of any mention of *economic and consumptive values* in the non-exhaustive list of included examples in the definition of *outstanding waterbodies* in the 2011 and 2014 (and 2017) versions of the NPSFM⁶, is evidence that these values were not intended to be able to be included.
40. Furthermore, the reporting officer’s reliance on ‘the proposed 2008 NPSFM’⁷ as evidence of an ‘intention’ to exclude *economic and consumptive values* is hardly relevant, because the 2008 draft NPSFM never came into effect. One might just as credibly argue that the absence of any mention of excluding *economic and consumptive values* in the fully operative 2011, 2014, 2017 and 2020 versions of

⁴ For example: some water takes below minimum flows (during droughts) for firefighting supplies or domestic and stock drinking water, or activities such as break-feeding, use of feed pads or feedlots, or some farming earthworks that trigger consent requirements under the NESFW or the RRMP.

⁵ Para 63 Officers s42A Hearing report

⁶ Para 64 Officers s42A Hearing report

⁷ Para 69 Officers s42A Hearing report

the NPSFM, is 'evidence' that the Minister of the day corrected an error in the intention to exclude such values in the draft 2008 NPSFM.

41. I note that advice from the Council's solicitor is to the effect that it is theoretically possible to recognise *economic and consumptive values* despite there being no case law precedent, albeit that it may be contentious and difficult to justify⁸.
42. The question about whether (exercising an abundance of legal caution due to) 'an absence of legal precedent' is sufficient grounds for not doing something that is otherwise theoretically possible to do, I leave to lawyers advise upon.
43. As for possibly being contentious and difficult to justify, my experience is that there are always at least two sides to every planning argument. Leaving something out of a plan because it seems to be in the 'hard basket' might seem simpler in the short-term, but it can also exacerbate problems. Human relationships with the environment are complex and intertwined. Where a plan can encompass more aspects of this complexity, the more robust the plan is likely to be.
44. PC7 seeks to assign a far-reaching 'outstanding' status to large swathes of water bodies, which will impact on the resilience of thousands of farms that depend upon this essential resource. It might be equally concluded that an abundance of planning caution should result in an appropriate balance being struck that recognizes the significance of economic and consumptive values of this resource (be these outstanding or significant values), which is proportionate to other values, and to the stewardship (including that of farmers) of this resource.
45. Part 3 of the NPSFM 2020 sets forth requirements for implementation. This includes engaging with communities and tangata whenua to determine how *Te Mana o te Wai* applies to water bodies and freshwater ecosystems (Clause 3.2) and active involvement of tangata whenua in freshwater management - to the extent they wish to be involved (Clause 3.4).
46. All the water bodies identified in Schedule 25 include outstanding spiritual and cultural values (on the insistence of the Council's Regional Planning Committee). It is now apparent that 3 iwi authorities disagreed with classifying some water bodies as outstanding (and other water bodies not), leading to 2 of these iwi authorities not wanting to participate in the plan change process⁹.

⁸ Para 66 Officers s42A Hearing report

⁹ Para 34 Officers s42A Hearing report

47. The reporting officer has made no recommendation about submissions on 'the cultural and spiritual value set', instead deferring to what tangata whenua submitters might have to say in their presentations (if any) to the Hearing Panel¹⁰. A consequence of this is that PC7 currently identifies very large water bodies with an expectation that some iwi authorities might confirm these, knowing that other iwi authorities may be unlikely to participate.
48. Having to consider separate tangata whenua submissions in order to validate the Council's Regional Planning Committee's guesses about which water bodies to include in Schedule 25 for cultural and spiritual values, leaves much uncertainty as to what actually should be included in the plan change as an OWB.
49. This situation leaves the rest of the community in uncertainty and second-guessing about which OBWs will be confirmed in PC7, whether or not they will be affected, and how these OWBs will be managed going forward. It may be more efficient for the planning process to remove all waterbodies that have been identified as having cultural and spiritual values from the Tables in Schedule 25 until the Council and tangata whenua can agree on an approach to dealing with these aspects.
50. The NPSFM 2020 also requires adoption of an *integrated management* approach to the extent needed to provide for management of effects of use and development of land on freshwater, and on freshwater receiving environments (Clause 3.5). Outstanding water bodies are amongst the *types of water bodies* that must be identified (Clause 3.8). Importantly, the *significant values* of outstanding water bodies must be identified (Policy 8). The emphasis on this highlights that it is critical to identify significant values - as opposed to any other 'type' of values. (There is no similar policy requirement for 'outstanding values' *per se*).
51. All the OWBs in PC7 Schedule 25 are identified with outstanding values, but with only a handful identified as having significant values. For other OWBs, including Ruataniwha aquifer, Tukituki River, Mohaka River and Wairoa River, there have not been any significant values identified. This creates uncertainty about the validity of the items listed.
- 3.7 The reporting officer has stated that PC7 was notified with a number of information deficiencies¹¹. PC7 contains an inherent expectation

¹⁰ Para 127 Officers s42A Hearing report

¹¹ Para 134 Officers s42A Hearing report

(through policies LW3A and Policy C2) that resource consent processes will fill in the information gaps on a case-by-case basis.

52. This leaves a lot up to decision makers and plan implementers to determine how values of outstanding water bodies are to be protected. It is also a piecemeal way of implementing a plan and is more likely to lead to inequities and patchy environmental outcomes. In my opinion, this is a poor policy/method for protecting important values.
53. Many identified OWBs lack information about where primary production values sit in relation to the hierarchy comprised of *outstanding values* and lesser status *significant values* that is set up in POL LW2 c) and Policy C2 1.d.
54. In this regard, the scheme of PC7, with its hierarchy of 'outstanding values' and 'significant values', adds an unnecessary layer of confusion to the policy framework of the RRMP, and goes beyond the intent of Policy 8 of the NPSFM. This confusion could be removed if the priority protection hierarchy was removed from PC7. The 'outstanding values' (as such) could then become the means for confirming identification of an OWB (i.e. 'outstanding characteristics'), and the 'significant values' would become the values that require protection. In my opinion, this would better align with the provisions and terminology in the NPSFM.
55. Consequently, it is my opinion that the hierarchy that prefers 'outstanding values' over 'significant values' where the two types are in conflict, ought to be removed from throughout the objective and policy framework proposed in PC7. If this was done, the 'outstanding values' notations in the tables in Schedule 25 should be deleted, and where appropriate, the contents of any such notations should be shifted into the 'significant values' column in the respective row for each identified OWB. 'Significant values' should be the values being protected, irrespective of whether these be economic and consumptive use values or not. Further, where economic and consumptive use values are significant values, they should be included as such.
56. In the NPSFM 2020, there is an expansion of compulsory values that must be applied to each Freshwater Management Unit ('FMU') (Clause 3.9 and Appendix 1A) to include *Threatened Species* and *Mahinga kai*, in addition to *Ecosystem Health* and *Human Contact* (which were the compulsory values in the 2017 version). However, regional councils may also identify other values, and must in every case consider whether the values listed in Appendix 1B apply (Clause 3.9). Appendix 1B values include: drinking water supply; animal

drinking water; irrigation, cultivation and production of food and beverages; as well as commercial and industrial use.

57. There are also additional new nationally-defined water quality attributes requiring limits on resource use (Appendix 2A), and attributes requiring action plans (Appendix 2B) expanding what was previously in the *National Objective Framework* ('NOF'). Target attribute states must be set above the national bottom line (Clause 3.11(4)).
58. As with earlier versions of the NPSFM, the 'A' Band is the highest quality band for water quality attributes in the NOF. Given the NOF was a feature of the 2017 and 2014 versions of the NPSFM (which has been retained and expanded upon in the 2020 version), my opinion is it could serve as a useful minimum prerequisite factor for assessing whether water quality, natural character and aquatic habitat are outstanding. However, the reporting officer's recommended screening framework makes no mention of this. This is somewhat surprising, given that PC7 was intended to comply with the NPSFM 2017.
59. There are also special provisions for managing nutrient concentrations (Clause 3.13), Limits in resource use (Clause 3.14), Setting flows and levels (Clause 3.16), Take limits (Clause 3.17) Monitoring (Clause 3.19), assessing trends (Clause 3.19), and responding to degradation (Clause 3.20).
60. The work to implement these new requirements within regional plan frameworks is required to be addressed in *action plans* that need to be reviewed every 5 years (Clause 3.15). As noted by the Council's reporting officer¹², there is no immediate requirement to retrofit PC7 with the NPSFM 2020 in its entirety. Even so, given the large amount of demand on Council and public resources typically needed to instigate and respond to plan changes, it would be expedient to consider how PC7 can be adjusted to comply as far as practicable¹³.
61. Amongst the NPSFM 2020 Subpart 3 provisions, Clause 3.21 makes a distinction between *natural inland wetlands* and *natural wetlands*, and only sets policy requirements for natural inland wetlands (Clauses 3.22 and 3.23). *Natural inland wetlands* need to be mapped by 3 September 2030 (Clause 3.23(4)). The effect of this, is that the NPSFM does not contain policies for managing natural wetlands in the CMA. Rather, those wetlands may be managed under the NESFW (see below).

¹² Para 28 Officers s42A Hearing report.

¹³ Provided that any changes area within the scope of submissions and/or further submissions received on PC7.

62. There are also specific requirements for rivers (Clause 3.24), including management of deposited sediment (Clause 3.25) and fish passage (Clause 3.26).

Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ('NESFW')

63. The NESFW regulates certain activities in and around *natural wetlands*. These include:
- restoration of natural wetlands (Clauses 38-39),
 - scientific research (Clauses 40-41),
 - construction of wetland utility structures (Clauses 42-43),
 - maintenance of wetland utility structures (Clauses 43-44),
 - construction of specified infrastructure (Clause 45),
 - maintenance and operation of specified infrastructure and other infrastructure (Clauses 46-47),
 - sphagnum moss harvesting (Clauses 48-49),
 - arable and horticultural land use (Clause 50),
 - natural hazard works (Clause 51),
 - drainage of natural wetlands (Clauses 52-53),
 - other activities requiring resource consent for a noncomplying activity, including vegetation clearance or earthworks within, or within a 10m setback from, a natural wetland; or taking, damming, diversion or discharge of water within, or within a 100m setback from, a natural wetland (Clause 54),
 - a suite of general conditions on wetland activities in Clauses 55-56.
64. This would cover natural wetlands in brackish water in the coastal environment and in margins of the CMA.
65. The range of activities that are permitted by the above clauses in the NESFW is generally quite limited. For example, the following types of activities are only permitted for the purpose of restoration of a natural wetland (Clause 28) or maintaining a wetland utility structure (Clause 43) or other specified infrastructure (Clause 46) or natural hazard work (Clause 51):
- vegetation clearance, earthworks or land disturbance within, or within 10m of, a natural wetland,
 - taking, use, damming, diversion or discharge of water within or within 100m m of a natural wetland,
66. There are also further conditions on these activities in Clause 55.
67. Everything other activity in natural wetlands requires resource consent (except for very limited arable and horticultural land use in Clause 50).

68. To the extent that the NESFW manages these activities in relation to natural wetlands, they are essentially 'protected'.
69. However, in PC7, Policy LW3A (only) applies to activities classed as discretionary activities or non-complying activities in a regional plan rule. Therefore, where requirement for resource consent is triggered in the NESFW, but not in a regional plan rule, there is a gap which may result in perverse outcomes.
70. Similarly, Policy C2 in PC7 applies a range of activities in the *coastal environment*, which cuts across the activities permitted by the NESFW. The implementation of this policy would be further confounded by confusion about the boundaries of the coastal environment.

Resource Management (Stock Exclusion) Regulations 2020 ('SE Regs')

71. The SE Regs exclude a range of stock types from access to water bodies, including from with 3m of lakes and wide rivers, and natural wetlands identified in a regional or district plan, and natural wetlands that support threatened species described in the NESFW, and from natural wetlands exceeding 500 square metres in area on *low slope land*¹⁴.
72. These exclusions would cover many natural wetlands (including natural wetlands within the CMA), effectively giving these a high level of protection from adverse effects associated with livestock rearing.
73. In this regard, I have the same sorts of concerns with PC7 Policy LW3A and Policy C2 in relation to the SE Regs as I hold in relation to the NESFW when it comes to managing activities in natural wetlands.

General assessment of PC7

74. Federated Farmers submitted that the definition of 'outstanding' ought to be modified so that it relates to what is 'conspicuous, eminent and/or remarkable' *on a national basis*, rather than merely being outstanding within the context of the Hawkes Bay Region. In this regard, 'regional outstandingness' inappropriately broadens the net that is cast by the objective and policy framework to capture more mundane water bodies in an unnecessarily complicated management framework.
75. This concern is bound up in the way PC7 identifies outstanding and significant values. The notified version of PC7 has scant description of outstanding values in Part 1 of Schedule 25 and nothing in the

¹⁴ As mapped by MfE.

proposed objectives and policies informing plan users how outstanding values were identified.

76. In my opinion, the wide range of documents that may inform OWB value identification have not been adequately cross-referenced into the PC7 objective and policy framework, nor into the reporting officer's recommended screening framework. It is not transparent as to how the OWB identification has been arrived at by reading PC7.
77. In seeking to address this, the reporting officer's recommended insertion of an identification and screening framework (as the new 'Part 2' of Schedule 25) has merit as a concept. However, the content of the suggested 'Table 1A'¹⁵ does not link into PC7 objectives and policies. Also, it covers only a select few types of possible outstanding values, and it has other short-comings.
78. The overarching criterion for each type of value listed in the table is prefaced by the phrase "Water body should be further investigated as providing an outstanding habitat ...". This is a preliminary step in a planning-issues discovery process, rather than being a substantial and complete screening framework. There are no subsequent steps to guide the assessment of potential OWBs.
79. Virtually all the lists of matters to be satisfied include criteria requiring exercise of judgement, which leave a lot to subjective interpretation and are not transparent. For example, "one of the highest... (of this or that feature)", "high diversity of habitats", "high numbers of trout", "a regional, national, or international reputation", "an essential component of the landscape", "wild and or scenic", "international and or national reputation and or high non-local usage".
80. There is no guidance on the type of evaluation required to assess values and determine management frameworks (e.g. environmental impact analysis, multi-criteria analysis, goals/achievement matrix analysis, planning balance sheet analysis, or cost/benefit analysis).
81. A range of possible management tools or varying levels of intervention may be appropriate for protecting each value (e.g. information/education, targeted grants for preservation actions such as fencing, protection covenants, plan rules, regulations, or public property acquisition and reservation). However, none of this is addressed, and the presumption would be that everything which passed the screening would automatically be protected in a plan rule

¹⁵ Note this is referenced differently where the suggested Table has been set out as 'Table 4' on Pages 53-58 inclusive of the s42A report

framework, with potential for multiple inefficiencies and inconsistencies.

82. The recommended screening framework leaves a lot to individual interpretation of those persons implementing the RRMP as to how it will be used. This is likely to result in patchy, piecemeal and inconsistent environmental outcomes, with many matters omitted in large catchments containing big water bodies.
83. Given that it is intended to be used in catchment-based planning to assist in identification of outstanding water bodies that require protection under the NPSFM, my opinion is that the recommended screening framework is not a suitable foundation for regulatory restrictions.
84. The suggested screening framework does not address the confusion between outstanding characteristics and significant values of OWBs inherent in PC7. The NPSFM requires protection of *significant values* of OWBs but makes no mention of 'outstanding values' as such. Amongst other matters requiring attention mentioned above, the recommended screening framework needs to get the nomenclature clear and that it should reflect the terminology used in the NPSFM. This is likely to require some considerable attention, and it may be appropriate to include this in a repackaged proposed plan change for OWBs that is notified by way of a variation.
85. The approach taken by the Council in structuring PC7 to be augmented in subsequent catchment-specific plan changes, has some advantages and some disadvantages.
86. An obvious advantage is to facilitate a 'rolling review' planning program that can be compartmentalized into various modules which enable the Council to manage its work program in smaller segments. This can assist with affordability in the face of bigger unknowns.
87. It can also enable some efficiencies if the pieces of the planning jigsaw are designed in such a way that they can be flexibly re-jigged (hopefully without too much confusion) to deliver a *rolling review* that meets legal requirements, is able to adapt to changes in various overarching directives (such as new National Policy Statements and Environmental Standards), and takes into account any new catchment-related information that may subsequently become available.
88. The main disadvantage with a *rolling review* approach arises from the more piecemeal nature of plan changes, and the difficulties in integrating different modules of each subsequent plan change within

the overall planning framework. Such difficulties are made worse where information is lacking. It is these kinds of difficulties which are the source of concern behind Federated Farmers' submissions.

89. Lack of information creates a twofold problem. Firstly, there is more uncertainty about how the plan change will affect daily activities moving into the future. Secondly, lack of information underpinning plan provisions undermines public confidence in the planning process, fostering cynicism that planning is a pointless exercise. This is a concern for New Zealand planning frameworks, where it has been shown that successful implementation of plans is as dependent on the capability of people who are implementing the plan, as it is on the quality of the plan itself¹⁶.
90. The new focus for Objective LW1.1 is 'protecting outstanding and significant values'. The reporting officer's interpretation is that 'outstanding' values are a prevailing consideration in identifying waterbodies as outstanding in Schedule 25. The reporting officer has noted that significant values have not been included for all the items in Schedule 25, the Council's intention being to identify those in subsequent regional plan changes for each catchment (or sub-catchment/Freshwater Management Unit).
91. In my opinion, this approach would tend to confuse plan users who cannot understand why some values which they might consider outstanding, are listed as significant for some water bodies, while most of the waterbodies in Schedule 25 do not have significant values attached at all. This weakens the plan framework, because it invites inconsistent implementation of the plan change and inconsistent assessment of outstanding water bodies in relation to subsequent plan changes that are intended to expand upon PC7.
92. Related to this, Policy LW3A relies on operative catchment-based regional plan changes, and applies when considering resource consent applications for water takes, damming, diversion (and changes to existing takes, dams, diversions), discharges of contaminants into OWBs, discharges onto land which result in contaminants entering OWBs, structures in bed of OWBs, and disturbance of beds.
93. This means that an applicant for one of these activities requiring resource consent will be required to consider effects on the outstanding or significant values of an OWB that is potentially affected by their activity. There is a lot of uncertainty implicit in such an

¹⁶ Berke, P., Backhurst, M., Day, M., Ericksen, N. J., Laurian, L., Crawford, J., & Dixon, J. (2006). *What makes plan implementation successful?: And evaluation of local plans and implementation practices in New Zealand*. *Environment and Planning B: Planning and Design*, 33(4), 581-600.

assessment requirement, given that some of the listed OWBs (such as the Heretaunga Aquifer and the Ruataniwha Aquifer) encompass thousands of hectares and affect hundreds of farms.

94. There is no expression within the policy framework about the types of adverse effects needing to be considered, nor about the severity (or otherwise) of adverse effects. Nor are there any obvious exceptions for specified activities for which potential adverse effects on OWBs will be so inconsequential as to be less than minor or *de minimis*. Consequently, many day-to-day farming activities which trigger resource consent requirements, will need assessments of effects on OWBs, regardless of whether they are needless assessments or not.
95. This includes takes and uses of water under Section 14(3)(b) of the RMA, which may end up being included in future plan changes as triggering resource consent application requirements in situations such as where minimum flows or levels are breached. Despite the reporting officers assertion that PC7 does not involve any change in status to RMA Section 14(3)(b) takes, Section 14(3)(b) takes can be called into question in some plan provisions, for instance; manage water allocation restrictions where minimum flows and levels are breached.
96. In order to overcome such difficulties, the policies could be amended to include exemptions from resource consent requirements for specific day-to-day activities that might have minor discharges into water bodies, but which are almost certain to not have adverse effects on OWBs. In terms of day-to-day farming, such activities are likely to be:
- Takes under Section 14(3)(b) of the RMA where maximum allocation limits are not exceeded and minimum river flows and lake levels are complied with.
 - Discharges (including sediment discharges) associated with farming that complies with the NESFW.
 - Application of fertilizer and agrichemicals for pest animal, pest plant, and disease control.
 - Soil disturbance associated with vegetation clearance.
 - Minor removal of deposited sediment and/or river gravel to maintain the original stream bed-height and grade of waterways to protect against flooding hazards.
 - Land cultivation and pasture maintenance.
 - Horticultural root ripping and shelterbelt maintenance.
 - Maintenance of farm tracks, airstrips, fences, and water supply lines.
 - Maintenance of rural fire breaks.
 - Maintenance of artificial or constructed wetlands, farm drains, farm water storage ponds and farm dams.

- Construction of artificial wetlands
- Operation of farm quarries where the winnings are used solely within the farm on which the farm quarry is situated.
- Maintenance of bores and construction of replacement bores,
- Maintenance of onsite wastewater disposal systems and replacement of existing domestic wastewater disposal systems
- Burning of vegetative matter
- Maintenance of waste disposal pits for farm rubbish and offal pits
- Maintaining culverts
- Earthworks and vegetation clearance associated with the above types of activities.

Recommendations

97. Given the large amount of demand on Council and public resources typically needed to instigate and respond to plan changes, it would be expedient to consider how PC7 can be amended to comply as far as practicable with the NPSFM 2020, where such amendments are supported by submissions and further submissions.
98. The scheme of PC7 should be amended to utilise consistent terminology with the NPSFM, where Policy 8 requires that ‘the significant values’ of OWBs are protected. The focus in Objective LW1.1 on ‘protecting outstanding and significant values’ is confusing for decision makers and plan users, and invites inconsistent implementation of the plan change and inconsistent assessment of outstanding water bodies in relation to subsequent plan changes that are intended to expand upon PC7.
99. As there is no requirement in the NZCPS to identify outstanding coastal water bodies, and the definition of “water body” in the RMA specifically excludes freshwater that is located in the CMA, then items in Schedule 25 which are within the CMA, should all be deleted from PC7.
100. The specific locations within *coastal environment* that OBJ 11 and Policy C1 and Policy C2 are intended to apply to, is very much a matter of subjective interpretation, due to the boundaries of the coastal environment being undefined in the RRMP. Therefore, unless the coastal environment is mapped, OBJ 11 and Policy C1 and Policy C2 should be deleted.
101. However, if the *coastal environment* is to be mapped, then the definition of ‘outstanding water body’ ought to include reference to the:
- “... freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 ... including, water bodies within ‘coastal

environment' where this is mapped in the Regional Resource Management Plan".

102. The requirement in Policy POL LW1.2 bA iii) for avoiding adverse effects that are more than minor on the outstanding and significant values of OWBs, should be amended to include ability to *avoid, remedy or mitigate* adverse effects as appropriate. Due to the widely-varying range of values that are potentially applicable to OWBs, it will be impracticable to simply *avoid* adverse effects in all instances.
103. The criteria for identifying Outstanding Water Bodies ('OWB's) in PC7 should be stricter so that the threshold for inclusion as an OWB is higher. Only pristine waterbodies with a low level of human use should be outstanding.
104. The hierarchy that prefers 'outstanding values' over 'significant values' where the two types are in conflict, is unnecessarily confusing and should be removed from throughout the objective and policy framework proposed in PC7. This hierarchy goes beyond the intent of Policy 8 of the NPSFM.
105. If the priority protection hierarchy was removed, the 'outstanding values' (as such) could then become the means for confirming identification of an OWB (i.e. 'outstanding characteristics'), and the 'significant values' would become the values that require protection. This would better align with the provisions and terminology in the NPSFM. Also, if this was done, the 'outstanding values' notations in the tables in Schedule 25 should be deleted, and where appropriate, the contents of any such notations should be shifted into the 'significant values' column in the respective row for each identified OWB.
106. 'Significant values' should be the values being protected, irrespective of whether these be economic and consumptive use values or not. Further, where economic and consumptive use values are significant values, they should be included as such. All OWBs where farms utilise the freshwater resource, should contain information about the significance of primary production values.
107. Policy LW3A relies on operative catchment-based regional plan changes, and applies when considering resource consent applications for water takes, damming, diversion (and changes to existing takes, dams, diversions), discharges of contaminants into OWBs, discharges onto land which result in contaminants entering OWBs, structures in bed of OWBs, and disturbance of beds. A great deal of administrative uncertainty could be removed if this policy were amended to include exemptions from resource consent requirements for specific day-to-

day activities that might have minor discharges into water bodies, but which are almost certain to not have adverse effects on OWBs. In terms of day-to-day farming, such activities are likely to be:

- Takes under Section 14(3)(b) of the RMA where maximum allocation limits are not exceeded and minimum river flows and lake levels are complied with.
- Discharges (including sediment discharges) associated with farming that complies with the NESFW.
- Soil disturbance associated with vegetation clearance.
- Minor removal of deposited sediment and/or river gravel to maintain the original stream bed-height and grade of waterways to protect against flooding hazards.
- Application of fertilizer and agrichemicals for pest animal, pest plant, and disease control.
- Land cultivation and pasture maintenance.
- Horticultural root ripping and shelterbelt maintenance.
- Maintenance of farm tracks, airstrips, fences, and water supply lines.
- Maintenance of rural fire breaks.
- Maintenance of artificial or constructed wetlands, farm drains, farm water storage ponds and farm dams.
- Construction of artificial wetlands
- Operation of farm quarries where the winnings are used solely within the farm on which the farm quarry is situated.
- Maintenance of bores and replacement bores,
- Maintenance of onsite wastewater disposal systems and replacement of existing domestic wastewater disposal systems
- Burning of vegetative matter
- Maintenance of waste disposal pits for farm rubbish and offal pits
- Maintaining culverts
- Earthworks and vegetation clearance associated with the above types of activities.

108. Policy LW3A applies a requirement for assessment of effects on the significant values of OWBs when considering resource consent applications classed as *discretionary activities* or *non-complying activities* in a regional plan rule.

109. Where requirement for resource consent is triggered in the NESFW, but not in a regional plan rule, there is a gap which may result in perverse outcomes. Similarly, Policy C2 in PC7 applies a range of activities in the *coastal environment*, which cuts across the activities permitted by the NESFW. (The implementation of this policy is further confounded by confusion about the boundaries of the *coastal environment*). This gap can be addressed by removing any unnecessary duplication in PC7 protection mechanisms for OWBs that

are already implicit in the NESFW and the National Stock Exclusion Regulations.

110.

PC7 should be amended to include description of how outstanding values were identified and how future OWBs will be assessed. In this regard the screening framework recommended by the Council's reporting officer should be revised along the following lines:

- i. Link the screening framework into the RRMP objective and policy framework.
- ii. Adopt the NPSFM NOF 'A' Band for water quality attributes as a minimum prerequisite threshold for assessing whether water quality, natural character and aquatic habitat are outstanding.
- iii. Remove aspects of the screening framework that are not transparent about the judgement required to screen candidate OWBs. For example, phrases such as "one of the highest... (of this or that feature)", "high diversity of habitats", "high numbers of trout", "a regional, national, or international reputation", "an essential component of the landscape", "wild and or scenic", "international and or national reputation and or high non-local usage", are potentially highly ambiguous and present a problematic degree of interpretation for decision makers and plan users, and so should not be part of a screening framework.
- iv. Provide guidance on the type of evaluation required to assess values and determine management frameworks (e.g. environmental impact analysis, multi-criteria analysis, goals/achievement matrix analysis, planning balance sheet analysis, or cost/benefit analysis)
- v. Include a range of possible management tools or varying levels of intervention may be appropriate for protecting each value (e.g. information/education, targeted grants for preservation actions such as fencing, protection covenants, plan rules, regulations, or public property acquisition and reservation). This would be more likely to ensure successful 'wrap-around' protection of OWBs.
- vi. Make the nomenclature about OWBs reflect the terminology used in the NPSFM, which only requires protection of the significant values of OWBs.

Attachment 1: Federated Farmers Submission on PC7

SUBMISSION

TELEPHONE 0800 327 646 | WEBSITE WWW.FEDFARM.ORG.NZ



To: Hawke's Bay Regional Council
159 Dalton Street
Napier 4110.

Submission on: **Proposed Plan Change 7 – Outstanding Waterbodies**

Date: 28 February 2020

Submission by: **FEDERATED FARMERS OF NEW ZEALAND**

Hawke's Bay Province
Wairoa Branch of Gisborne-Wairoa Province

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Federated Farmers welcomes this chance to submit on the Plan Change 7 for Outstanding Waterbodies.

We acknowledge any submissions made by individual Federated Farmers members.

What is an outstanding waterbody?

Federated Farmers questions as to what exactly, is an outstanding waterbody? Is the expectation that waterbodies meeting threshold for outstanding are pristine, or have a low level of human use? Is it reasonable to find waterbodies with a lot of human use (municipal, industrial and primary production takes, human land uses surrounding the waterbody) to be outstanding, often only meeting a single criterion?

The [FAQ sheet](#) describes the term 'outstanding' as *distinguishing something from others based on its exceptional qualities and is typically used to describe the 'best of the best'*. But this is not reflected by the number of waterbodies, their sometimes highly modified environments, and especially those that only meet one criterion.

We see two either/or ways to improve Plan Change 7:

- Plan A: the criteria are stricter and the threshold is higher, so only pristine waterbodies with a low level of human use are found to be outstanding;
- Plan B if waterbodies that have high human land and water use are found to be outstanding, then additional criteria for human uses are included as a potential outstanding or significant value. This means land and water use for farming will be provided for in the outstanding waterbody regime as being existing and necessary.

We prefer Plan A: that the criteria are more specific and only pristine waterbodies with low human use are classified as outstanding, such as Lakes Rotoroa and Rototuna in the Kaweka Forest Park.

The large number of waterbodies (being 38,) the massive size of some of them (the Heretaunga aquifer) and all five of the major Hawkes Bay Rivers being classified, suggests that the criteria are currently too broad and the threshold for "outstandingness" is too low. This undermines the concept of what is outstanding, and undermines a management regime if it applies so broadly.

The NPS-FM 2019 defines outstanding waterbodies *as having outstanding values*, which indicates that more than one value is present. Currently Plan Change 7 is inconsistent with this definition because only one criterion is met for a waterbody to be outstanding. Federated Farmers submits that two or more criteria need to be met.

The full extent of each of these 38 waterbodies will cast the regulatory net over many square kilometres of the region that already have concentrated human use, dragging all land and water uses into a strict regime.

Given that the policies say that a huge range of activities could be discretionary or non-complying when occurring in an outstanding waterbody (any new or changed take, use, damming or diversion of water; any new or changed discharge into water; any new or changed discharge to land; any new structures on the bed; and new or changed disturbance to the bed;) most of the human activity in the food bowl of Hawke's Bay could need resource consent. Federated Farmers would be more accepting of the regime if the waterbodies identified were pristine, or close to pristine, with little human activity around them.

Relief sought:

1. Federated Farmers submits that the criteria are stricter and the threshold of outstandingness is higher, so only pristine or low human intervention waterbodies are found to be outstanding,
2. Federated Farmers submits that land and water use for farming are recognised as being existing and important.

3. Federated Farmers submits that two or more criteria are met before a waterbody is found as outstanding.

All, or part of, the waterbody classified as outstanding?

We also ask if only part of the waterbody needs to meet one criteria in order for the entire extent of that waterbody to be classified? Or are the criteria met throughout the entire waterbody?

We prefer that only the section of waterbody that meets two or more criteria is classified as outstanding. We do not support the entire extent of the waterbody (e.g. the entire length of a river, or the entire spatial extent of an aquifer) being classified, if only a small area meets the criteria.

The huge extent of some waterbodies such as the Heretaunga aquifer, and the entire Ngaruroro River, suggests that the criteria aren't currently being applied well.

Relief sought:

4. Federated Farmers submits that only the section of the waterbody that meets the criteria, is classified as outstanding.

Terminology

Federated Farmers submits that the terms *outstanding* and *significant* need to have distinct meanings and have consistent use throughout the Plan.

The reader should not be under the impression that these terms are interchangeable. There needs to be a clear ranking between the terms *outstanding*, *significant*, *regional*, *significant regional* and *national* values which all appear within OBJ LW1. If the values are to be prioritised in their use, their respective rankings need to be crystal clear.

Relief sought:

5. Federated Farmers submits that terminology *outstanding*, *significant*, *regional*, *significant regional* and *national* values have clear ranking and consistent use throughout the Plan, so there is no confusion as to what each term means.

Section 14.3(b) takes and uses

Federated Farmers submits that takes and uses for domestic and stock drinking needs under Section 14.3(b) continue to have allowed status, and are built into any catchment water take regime and not affected by low flow limits or have to face restrictions or cessations.

“Allowed” status for Section 14.3(b) takes and uses means they are not regulated in the Regional Plan; they are already regulated under the RMA so long as the taking or use does not, or is not likely to,

have an adverse effect on the environment. The Regional Resource Management Plan already gives S.14.3(b) takes allowed status, see footnote 8 in Table 2A of the Plan Change.

Federated Farmers is concerned that takes that are shared between farmers are being incorrectly interpreted by the Regional Council as not meeting Section 14.3(b) status, simply because it is shared between properties. This is a very common situation and the crossing of a property boundary does not cancel out the fact it is still only used for households and stock drinking. An example is a single water take from a well or bore near a boundary, that the farmers on either side use to supply their nearby troughs. Another example is a water take that supplied three houses on a farm, but these houses have since been subdivided off and still use the original supply. Both of these examples meet the Section 14.3(b) criteria and need to be classified as such.

Federated Farmers submits that Section 14.3(b) water takes and uses are not classified as over-allocation. The consequence of including such a necessary take in the over-allocation band will result in limits, cessations, or phasing-out of this water use, unacceptably leaving farmers without water for domestic and stock drinking supply.

Relief sought:

6. Federated Farmers submits that Section 14.3(b) takes and uses continue to have allowed status in outstanding waterbodies, and are not regulated by the Regional Resource Management Plan further.
7. Federated Farmers submits that any water allocation regime for an outstanding waterbody ensures enough water is allocated to Section 14.3(b) takes and uses, and even at times of low flow there is enough water for stock to drink.

Consultation

It looks like the Regional Council is relying on the general public notification in order to consult with affected landowners. This is not robust enough consultation.

Many of the waterbodies are small or have a well-defined extent, and therefore contacting the directly affected landowners who have these waterbodies on their property should be an achievable task. Waterbodies like lakes, springs, swamps and wetlands all have well-defined boundaries and the number of affected landowners will be low. Waterbodies like rivers or streams that are pristine or near-natural environments will also present an achievable task of identifying and contacting landowners, as these are mostly on crown land, and if there is private property these are likely to be large so again not an issue with trying to identify hundreds of landowners.

The large waterbodies that cover many square kilometres of urban and primary production land, such as aquifers and the five main river catchments of Hawke's Bay (Wairoa River, Mohaka River, Tutaekuri River, Ngaruroro River and Tukituki River) present a challenge, as much of the Hawke's Bay population will be affected by one or another. This demonstrates the need for the outstanding threshold to be high.

Relief sought:

8. Federated Farmers submits that direct consultation of affected landowners occurs.

Objectives

PC7 Provision:

OBJ LW 1 - Integrated management of fresh water and land use and development.

Reason for submission:

Federated Farmers supports the recognition of animal and human drinking water in Point 5 in OBJ LW1, and we submit that such drinking water is also provided for in outstanding waterbodies. We do not want a situation where the *regional value* status of human and stock drinking water means there won't be enough to drink.

Federated Farmers submits that water use and land use in outstanding waterbodies is recognised and provided for, because many of the outstanding waterbodies occur in areas where farming is present. We are concerned that only use of water (being takes) is recognised in Point 6 of OBJ LW1, and that the land use itself has been left out as an important value.

Relief sought:

9. That Objective OBJ LW1 provides enough water for Section 14.3(b) takes and uses in outstanding waterbodies.
10. That land use for farming is recognised and provided for in outstanding waterbodies.

Policies

PC7 Provision:

POL LW 1 Problem solving approach – Catchment-based integrated management

1. Adopt an integrated management approach

Reason for submission:

Policy LW1.1cC needs to describe that the first step is to assess waterbodies to find out which ones are outstanding, using the criteria in Schedule 25, Part 1 Table 1. Referencing "*any other values that are determined to be relevant*" makes it sound like the assessor can make up criteria on the day.

Federated Farmers supports consistency between Pol LW1.1d) and the NPS for Freshwater Management, in the 2019 draft significant values are to be protected.

Federated Farmers asks if the water quality is not an outstanding value in a particular waterbody, whether Pol LW1.1dA) seeking to enhance water quality would still apply? For example if a waterbody's geological values is unaffected by water quality, would quality still be enhanced? Like water quantity, this should apply *where appropriate* rather than *where necessary*.

Federated Farmers is concerned that Pol LW1.1dA seeking to protect water quantity could mean that there will not be enough water for Section 14.3(b) takes and uses. We are also concerned that this will mean no new water takes for other uses. For a small and discrete waterbody such as Lake Rotoroa in the wilderness it would be understandable to want to avoid depletion via takes, yet for a large waterbody like the Heretaunga Aquifer there would be a reasonable demand for new takes for human uses, such as for farming, which should be enabled instead of avoided.

Relief sought:

11. Federated Farmers submits that Policy LW1.1cC refers to using only the criteria in Schedule 25, Part 1 Table 1.
12. Federated Farmers submits that Pol LW1.1dA) requires the enhancement of water quality *where appropriate*, similar to how water quantity is protected *where appropriate*.
13. Federated Farmers submits that where Pol LW1.1dA) discusses water quantity, enough water for Section 14.3(b) takes and uses are provided for in outstanding waterbodies, and that new water takes for other uses are provided for.

1.

PC7 Provision:

POL LW 1 Problem solving approach – Catchment-based integrated management

2. When preparing regional plans

Reason for submission:

Support is given for identifying what the significant values of each outstanding waterbody are in Pol LW1.2 bA)i) and their spatial/temporal extent. This is useful information and needs to be written into Table 2 to enhance the transparency and improve knowledge. The spatial extent is particularly important, because the outstanding status needs to be limited to where the outstanding values are actually present.

Support is given for non-regulatory methods alongside regulatory methods in Pol LW1.2 bA) ii) and that both can be used together.

Support is given to the focus of activities that have an adverse effect that is more than minor in Pol LW1.2 bA) iii). Section 14.3(b) takes and uses need to be recognised as having only minor effects on outstanding waterbodies, and given “allowed” status and do not need Regional Plan provisions. Federated Farmers is wary when the word “avoid” is used, as it could mean “prohibit.” There is no need to “prohibit” the effects of an activity if it does not impact on the outstanding values identified for that particular waterbody. For example, an activity that does not impact on the geological values need not be avoided.

Relief sought:

14. Federated Farmers submits that the spatial and temporal extent of values are important, because the outstanding status of the waterbody needs to be limited to where the values are present.
15. Federated Farmers submits in support of non-regulatory methods having equal status with regulatory methods in order to protect an outstanding waterbody.
16. Federated Farmers submits that activities that have less than minor effects do not need regional plan provisions, such as Section 14.3(b) takes and uses.
17. Federated Farmers submits that adverse effects which do not materially reduce the outstanding values present in a waterbody are provided for and managed, rather than being completely avoided.

PC7 Provision:

POLICY LW2 Problem solving approach – prioritising values

Reason for submission:

Federated Farmers is concerned that Section 14.3(b) takes and uses will miss out when prioritising values, because they are not mentioned in neither Policy LW1.3 nor in Policy LW2. Although *individual domestic needs and stock drinking needs* are included as a value in Table 2A, these will be of lower priority than outstanding values.

Federated Farmers submits that water and land use for farming are primary values in Table 2A. Water use is already recognised when it is *for beverages, food and fibre production and processing*, but the land use aspect isn't.

Relief sought:

18. Federated Farmers submits that Section 14.3(b) takes and uses are incorporated into Policy LW2 as having “allowed” status when prioritising values.
19. Federated Farmers submits that water and land use for farming are included as primary values in Table 2A.

PC7 Provision:

Policy LW3A Decision Making Criteria – Outstanding water Bodies

Reason for submission:

Federated Farmers is concerned that the requirement for an activity to *protect* outstanding and significant values will mean the activity has to do some sort of active protection work, over and above their obligation to avoid, remedy or mitigate adverse effects on the identified values.

As for the rule regimes discussed in Policy LW3A.2, Federated Farmers considers that the provisions for outstanding waterbodies have to be tailored to each particular waterbody. Given that there is such a difference between a small and discrete waterbody in a pristine natural environment like Lakes Rotoroa and Rototuna, and a large waterbody like the 510km² Heretaunga aquifer which has a array of human water and land uses above it, blanket rules will not be practical.

Relief sought:

20. Federated Farmers submits activities must avoid, remedy or mitigate their adverse effects on identified outstanding values, rather than to protect them.
21. Federated Farmers submits that the rule regimes have to be tailored to each particular outstanding waterbody and its values, rather than blanket rules that apply to all.

PC7 Provision:

OBJ 11 Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.

Reason for submission:

Federated Farmers submits that Objective 11 is consistent with the NPS for Freshwater Management.

PC7 Provision:

POLICY C1 Problem solving approach – outstanding waterbodies

Reason for submission:

Support is given for identifying what the significant values of each outstanding waterbody are in Pol C1.1(i) and their spatial/temporal extent. This is useful information and needs to be written into Table 2 to enhance the transparency and improve knowledge. The spatial extent is particularly important, because the outstanding status needs to be limited to where the outstanding values are actually present.

Support is given for non-regulatory methods alongside regulatory methods in Pol C1.1(ii) and that both can be used together.

Support is given to the focus of activities that have an adverse effect that is more than minor in Pol C1.1(iii). Federated Farmers is wary when the word “avoid” is used, as it could mean “prohibit.” There is no need to “prohibit” the effects of an activity if it does not impact on the outstanding values

identified for that particular waterbody. For example, an activity that does not impact on the geological values need not be avoided.

Relief sought:

22. Federated Farmers submits that the spatial and temporal extent of values are important, because the outstanding status of the waterbody needs to be limited to where the values are present.
23. Federated Farmers submits in support of non-regulatory methods having equal status with regulatory methods in order to protect an outstanding waterbody.
24. Federated Farmers submits that activities that have less than minor effects do not need regional plan provisions.
25. Federated Farmers submits that adverse effects which do not materially reduce the outstanding values present in a waterbody are provided for and managed, rather than being completely avoided.

PC7 Provision:

Policy C2 Decision Making Criteria – Outstanding water Bodies

Reason for submission:

Federated Farmers is concerned that the requirement for an activity to *protect* outstanding and significant values will mean the activity has to do some sort of active protection work, over and above their obligation to avoid, remedy or mitigate adverse effects on the identified values.

As for the rule regimes discussed in Policy C2.2, Federated Farmers considers that the provisions for outstanding waterbodies have to be tailored to each particular waterbody. Blanket rules will not be practical when each outstanding waterbody is so different.

Relief sought:

26. Federated Farmers submits activities must avoid, remedy or mitigate their adverse effects on identified outstanding values, rather than to protect them.
27. Federated Farmers submits that the rule regimes have to be tailored to each particular outstanding waterbody and its values, rather than blanket rules that apply to all.

PC7 Provision:

Definition: *Outstanding water body means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s).*

Reason for submission:

Federated Farmers submits that more than one criterion is met before a waterbody is classified as outstanding, and that water use and land use for primary production are both included as outstanding values.

Relief sought:

28. Federated Farmers submits that more than one criterion is met before a waterbody is classified as outstanding in the definition of *Outstanding Waterbody*.
29. Federated Farmers submits that water use and land use for primary production are both included as outstanding values in the definition of *Outstanding Waterbody*.

PC7 Provision:

Definition: *Outstanding for the purposes of an outstanding water body; outstanding means conspicuous, eminent, and/or remarkable in the context of the Hawke's Bay Region.*

Reason for submission:

Federated Farmers supports this definition of outstanding as being conspicuous, eminent and remarkable, however the word *or* needs to be deleted. The NPS for Freshwater Management does not direct that outstanding waterbodies are outstanding on a regional basis compared to other regional waterbodies.

Relief sought:

30. Federated Farmers submits that the definition for *Outstanding* is amended to read:
Outstanding for the purposes of an outstanding water body; outstanding means conspicuous, eminent, and ~~or~~ remarkable on a national basis. in the context of the Hawke's Bay Region.

PC7 Provision:

Schedule 25 Part 1 - Table 1 outstanding values and sub-values.

Reason for submission:

Federated Farmers submits that the values need to be more specific in order to lift the threshold of "outstandingness." The current criteria look to be too broad, given that so many waterbodies have been classified as outstanding, and some are very large (like the Heretaunga aquifer) and have a high level of human use.

When we think of "outstanding" the threshold should be higher, only selecting waterbodies that are exceptional. We can look to district councils identifying outstanding natural landscapes as an example, where a small number of sites and a smaller extent of the site met the specific criteria. In Hastings District, only 9 landscapes were identified as outstanding, and sometimes only part of the landscape was found outstanding. Landscapes that sound large and extensive, like the Maungahururu Ranges,

were not found to be all outstanding, rather only the top 40 metres was mapped and classified. This provides a contrast with Plan Change 7, which found a huge 38 waterbodies to meet criteria and also the entire extent of each.

Given that waterbodies that have a high level of human use are being classified as outstanding, Federated Farmers submits that more use values, such as farming, are included into the table, both as outstanding values and sub-values, so that these are recognised and provided for.

Currently, the draft NPS -FM 2019 says that an outstanding waterbody means: *a waterbody identified in a regional policy statement or plan as having outstanding values (such as ecological, landscape, recreational, or spiritual values)*. This does not exclude other values like primary production, therefore the Council has the ability to incorporate the value of primary production water and land use as a criteria for determining whether a waterbody is outstanding or not.

Table 1 in Schedule 25 Part 1 is currently not limited to only inherent or environmental values: recreation is recognised as a “use value” in Table 1, and includes fishing, kayaking, rafting and jet boating. If these use values are included, then other use values such as primary production should be recognised too.

Relief sought:

- 31. Federated Farmers submits that two or more criteria need to be met in order for a waterbody to be classified as outstanding.
- 32. Federated Farmers submits that criteria are more specific so the threshold for “outstandingness” is high.
- 33. Federated Farmers submits that the outstanding classification applies only to the area where the criteria are met, rather than the whole waterbody classified when criteria apply to only a section of the waterbody.
- 34. Federated Farmers submits that water use and land use for primary production are both included as outstanding criteria.

PC7 Provision:

Schedule 25 Part 2 - Outstanding waterbodies in Hawke’s Bay and their values.

Outstanding Waterbody in PC7	Federated Farmers submission	Relief sought:
Heretaunga Aquifer	We are concerned about the outstanding status of this 510km ² aquifer and what this will mean for the existing land and water uses, given that it is a major concentration of human settlement in Hawkes Bay.	Federated Farmers submits that outstanding status is deleted from the Heretaunga Aquifer.

	<p>Paragraph 4 of Appendix 4 acknowledges the importance of the aquifer for domestic, municipal, industrial, horticultural and agricultural use. It appears that Ngāti Kahungunu emphasised the current economic importance (see para 14) so at least this needs to be recognised.</p> <p>We are also unclear how the aquifer met the geological criterion, and is considered outstanding compared to other aquifers.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>We are relieved to see the recognition of primary production water use, but given so much primary production occurs here it needs to be an outstanding value, and also needs to be extended to recognise primary production land use.</p>	
Karamu River	<p>The Karamu River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>We are also concerned as to whether this criterion is met throughout the entire 51,462ha catchment, or just to part of the river.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>We are relieved to see the recognition of primary production water use, but given so much primary production occurs here it needs to be an outstanding value, and also needs to be extended to recognise primary production land use.</p>	Federated Farmers submits that outstanding status is deleted from the Karamu River, given it only meets a single criterion.
Kaweka and Ruahine Ranges wetlands	Federated Farmers accepts this so long as the wetlands are within Department of Conservation land, and not on private	Federated Farmers submits that the Kaweka and Ruahine Ranges wetlands meet two or


	<p>land. If any are on private land then the landowner needs to be directly consulted with.</p> <p>Again we have concerns that only a single criterion has been met, and that these wetlands are unmapped.</p>	<p>more criteria before being found as outstanding, and that these are mapped.</p> <p>Federated Farmers submits that any private landowners affected are directly notified and consulted.</p>
Lake Rotoroa and Lake Rototuna	<p>These lakes are a good example of the outstanding threshold being high, as they have no signs of human modifications, and are located in the Kaweka Forest Park and meet three criteria (cultural and spiritual; ecology; natural character.)</p>	<p>Federated Farmers supports the outstanding status of Lakes Rotoroa and Rototuna.</p>
Lake Poukawa and Pekapeka Swamp	<p>The Lake Poukawa and Pekapeka Swamp only meet a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with. Given these are discrete and well-defined waterbodies, identifying landowners will be possible.</p>	<p>Federated Farmers submits that outstanding status is deleted from the Lake Poukawa and Pekapeka Swamp given they only meet a single criterion.</p>
Lake Tutira	<p>Lake Tutira only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Given that the Tutira water quality is currently bad (due to a combination of factors) which reduces other values, we hope that the “past or potential” value is not being assessed here. The HBRC FAQ sheet paragraph 6 emphasises that past or potential values don’t count.</p>	<p>Federated Farmers submits that outstanding status is deleted from Lake Tutira given it only meets a single criterion. This lake should certainly not be considered the best-of-the-best compared to other waterbodies in the region.</p>
Lake Waikareiti	<p>Lake Waikareiti only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Given that it only meets one criterion, we question whether this lake is included because of its closeness to another outstanding waterbody: Lake</p>	<p>Federated Farmers submits that outstanding status is deleted from Lake Waikareiti given it only meets a single criterion.</p>

	Waikaremoana. Being close to another waterbody is not a criterion.	
Lake Waikaremoana	Federated Farmers supports the outstanding status of Lake Waikaremoana. It meets 6 criteria (cultural and spiritual; ecology; natural character; landscape; geology, recreation) and is a good example of an exceptional waterbody.	Federated Farmers supports the outstanding status of Lake Waikaremoana.
Whakaki Lake – Te Paeroa Lagoon- Wairau Lagoon and wetlands	Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.	Federated Farmers submits that private landowners affected are directly notified and consulted. Federated Farmers submits that water and land use for farming is recognised as an outstanding value.
Lake Whatuma	Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with. Given this is a discrete and well-defined waterbody, identifying landowners will be possible.	Federated Farmers submits that private landowners affected are directly notified and consulted. Federated Farmers submits that water and land use for farming is recognised as an outstanding value.
Makirikiri River	The Makirikiri River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding. Federated Farmers is unsure where this waterbody is located, what the surrounding land use is, or if any private landowners are affected. The only stream of this name we were able to find was up in the Ruahine Ranges.	Federated Farmers submits that outstanding status is deleted from the Makirikiri River, given it only meets a single criterion. More information is needed as to the location of this waterbody.
Mangahouanga Stream	Private landowners will be affected and there is surrounding forestry land use, and Federated Farmers submits that they need to be directly notified and consulted with. The geological criterion sounds like it is exceptional, being the location of New Zealand’s most significant dinosaur fossils. This is a good example of a high outstanding threshold being justified.	Federated Farmers submits that private landowners affected are directly notified and consulted.

<p>Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune wetlands</p>	<p>It appears that private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with. Given these are discrete and well-defined waterbodies, identifying landowners will be possible.</p>	<p>Federated Farmers submits that private landowners affected are directly notified and consulted.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
<p>Mohaka River</p>	<p>The upper Mohaka (above Willow Flat) is where the criteria are met as shown in the Secondary Assessment Report and the WCO, therefore the outstanding status should be limited only to that upper extent.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Federated Farmers submits that only the upper Mohaka, above Willow Flat, where the values present is classified as outstanding, rather than the entire river.</p> <p>Federated Farmers submits that private landowners affected are directly notified and consulted.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
<p>Morere Springs</p>	<p>Federated Farmers is unsure if this is located on private land. We think it is only on DoC land.</p>	<p>If this is located on private land, that the landowner is directly notified and consulted with.</p>
<p>Ngamatea East Swamp</p>	<p>The landowners need to be directly consulted with by the Regional Council. Given that this swamp is on only one property, there is only one landowner to consult with.</p>	<p>Federated Farmers submits that the outstanding classification is removed from the Ngamatea Swamp, until consultation with the landowner occurs.</p>
<p>Ngaruroro River and Estuary</p>	<p>Given that the proposed Water Conservation Order decision was to find that the lower catchment was not outstanding, finding this entire river outstanding under PC7 is contrary to the evidence.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p>	<p>Federated Farmers submits that the outstanding classification is deleted from the Ngaruroro River.</p>

Nuhaka River	<p>The Nuhaka River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	Federated Farmers submits that outstanding status is deleted from the Nuhaka River, given it only meets a single criterion.
Opoutama Swamp	Federated Farmers is unsure if this is located on private land.	Federated Farmers submits that any private landowners affected are directly notified and consulted.
Porangahau River and Estuary	<p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Federated Farmers submits that private landowners affected are directly notified and consulted.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
Putere Lakes	<p>Federated Farmers was unable to find much information on these lakes in the HBRC material, either we are looking in the wrong place, or there isn't much. Paragraph 395 of the Selecting a List of Waterbodies report says that poor water quality means that native plants aren't outstanding, and we were unable to find any information in the Secondary Assessments. The Plan Change text has only brief mention of historic mahinga kai values, but we are reminded of the FAQ which says past or potential values do not count when it comes to assessing "outstandingness." This indicates that the Putere Lakes do not meet any criteria.</p>	Federated Farmers submits that outstanding status is deleted from the Putere Lakes, given they appear to not meet any criteria.
Ripia River	<p>The Ripia River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The Ripia River appears to be more important as a confluence point with the Mohaka, than as a distinct waterbody</p>	Federated Farmers submits that outstanding status is deleted from the Ripia River, given it only meets a single criterion.

	with outstanding values in its own right in both the Selecting a List of Waterbodies and Secondary Assessments reports.	
Ruakituri River	<p>Federated Farmers supports the outstanding status of the Ruakituri River above the Waitangi falls where it has no human modification in the wilderness zone. It meets 6 criteria (cultural and spiritual; ecology; natural character; landscape; geology, recreation) and is a good example of an exceptional waterbody because of its untouched wilderness.</p> <p>Federated Farmers asks if the outstanding values are found only upstream from the Waitangi Falls, if so we question why the entire river has been classified. Given that farming land use is present in the lower reaches</p>	<p>Federated Farmers supports the outstanding status of the Ruakituri River, upstream from the Waitangi Falls in the wilderness zone.</p> <p>Federated Farmers submits that outstanding status is deleted from the Ruakituri River below the wilderness zone where farming land uses are present.</p>
Ruataniwha Aquifer	<p>The Ruataniwha Aquifer only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>We are concerned to read in paragraph 12 of Ruataniwha Aquifer Secondary Assessment that <i>no direct customary linkages have been established back to the in the documents reviewed in Table 1, it is recognised that all fresh water bodies have special cultural, spiritual, historical and traditional associations with freshwater.</i> This broadens the cultural and spiritual value to cover every waterbody in the region, which makes the outstanding threshold very low.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities and needs to be recognised.</p>	<p>Federated Farmers submits that outstanding status is deleted from the Ruataniwha Aquifer given it only meets a single criterion.</p>
Tarawera Hot springs	<p>The Tarawera Hot springs only meet a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	<p>Federated Farmers submits that outstanding status is deleted from the Tarawera Hot springs given it only meets a single criterion.</p>

	<p>Trying to find out more of this waterbody, Federated Farmers came across this 2010 photo, which puts the outstanding status in some jeopardy! Anecdotal evidence says that the structures have been removed, but has the site been rehabilitated back to its natural state?</p> 	
<p>Taruarau River</p>	<p>Federated Farmers is not sure about the claim that the Taruarau River has outstanding recreational values. The WCO Special Tribunal did find that the upper Ngaruroro catchment has angling, white water kayaking and rafting amenity and recreation values that are outstanding on a national basis, but do these same values apply to the Taruarua River?</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Federated Farmers submits that private landowners affected are directly notified and consulted</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
<p>Te Hoe River</p>	<p>Federated Farmers supports the outstanding status of the Te Hoe River which is in a highly natural state.</p> <p>However, looking at aerial photos it appears that some land use (either forestry or farming) is occurring. In this case, Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Federated Farmers submits that private landowners affected are directly notified and consulted.</p>

Te Paerahi River	<p>Te Paerahi River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Federated Farmers was unable to find any information on this river in neither the Selecting a List of Outstanding Waterbodies nor in the Secondary Assessments reports.</p>	Federated Farmers submits that outstanding status is deleted from the Te Paerahi River given it only meets a single criterion.
Te Whanganui a Orotu (Ahuriri Estuary)	The water and land use of this catchment is important to the social and economic wellbeing of people and communities.	Federated Farmers submits that water and land use for farming is recognised as an outstanding value.
Tukituki River and Estuary	<p>The outstanding values seem to be only found in particular areas of the Tukituki River, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities, and needs to be recognised.</p>	<p>Federated Farmers submits that only the part of the river which has the values present, should be classified as outstanding, rather than the entire river.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
Tutaekuri River	<p>The outstanding values seem to be only found in the upper reaches which is in a near-pristine state, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>We are relieved to see the recognition of primary production water use, but given so much primary production occurs here it needs to be an outstanding value, and also needs to be extended to recognise primary production land use.</p>	<p>Federated Farmers submits that only the part of the river which has the values present, should be classified as outstanding, rather than the entire river.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
Waiau River	Paragraph 221 of the Selecting a List report notes that this river is in a near natural state, however it appears that there is some primary production land	Federated Farmers submits that only the part of the river which has the values present, should be classified as

	<p>use looking at aerial photographs. The outstanding values seem to be only found in the upper reaches which is in a near-pristine state, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with</p>	<p>outstanding, rather than the entire river.</p> <p>Federated Farmers submits that water and land use for farming is recognised as an outstanding value.</p>
Waihua River	<p>The Waihua River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming land use, and Federated Farmers submits that they need to be directly notified and consulted with</p>	<p>Federated Farmers submits that outstanding status is deleted from the Waihua River given it only meets a single criterion.</p>
Waikaretaheke River	<p>The Waikaretaheke River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	<p>Federated Farmers submits that outstanding status is deleted from the Waikaretaheke River given it only meets a single criterion.</p>
Waipawa River	<p>The Waipawa River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities, and needs to be recognised.</p>	<p>Federated Farmers submits that outstanding status is deleted from the Waipawa River given it only meets a single criterion.</p>
Waipunga River	<p>The Waipunga River is in a near-natural state and meets two criteria, and Federated Farmers supports its classification as outstanding.</p>	<p>Federated Farmers supports the outstanding status of the Waipunga River which is in a near natural state.</p>
Wairoa River	<p>The Wairoa River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The water and land use of this catchment, particularly farming, is of vital</p>	<p>Federated Farmers submits that outstanding status is deleted from the Wairoa River given it only meets a single criterion.</p>

	importance to the social and economic wellbeing of people and communities, and needs to be recognised.	
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Federated Farmers is a not-for-profit primary sector policy and advocacy organisation that represents the majority of farming businesses in New Zealand. Federated Farmers has a long and proud history of representing the interests of New Zealand's farmers.

The Federation aims to add value to its members' farming businesses. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:

- Our members may operate their business in a fair and flexible commercial environment;
- Our members' families and their staff have access to services essential to the needs of the rural community; and
- Our members adopt responsible management and environmental practices.

This submission is representative of member views and reflect the fact that resource management and local government decisions impact on our member's daily lives as farmers and members of local communities.

Federated Farmers thanks the Hawke's Bay Regional Council for considering our submission on Proposed Plan Change 7 for Outstanding Waterbodies.



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FURTHER SUBMISSION



TELEPHONE 0800 327 646 | WEBSITE WWW.FEDFARM.ORG.NZ

To: **Hawkes Bay Regional Council**

From: Federated Farmers of New Zealand

On the: **Proposed Plan Change 7 – Outstanding Water Bodies**
Hawkes Bay Regional Resource Management Plan

Date: 10 September 2020

Further submission by: Hawkes Bay Federated Farmers.

JIM GALLOWAY
HAWKES BAY PROVINCIAL PRESIDENT
Federated Farmers of New Zealand

Address for Service: **Peter Matich**
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Please find Federated Farmers of New Zealand Further Submission on the Proposed Plan Change 7 – Outstanding Water Bodies detailed in the table in the attached Schedule.

Where Federated Farmers submitted on the same point as any other submitter it stands by its original submission. This Further Submission seeks only to provide Federated Farmers views on points raised by other submitters that are not already covered in our original submission.

Federated Farmers has an interest in the proposal that is greater than the interest the general public has. The grounds for saying that I come within this category are that:

- Federated Farmers of New Zealand is a representative body for all farmers. The subject matter of the appeal is a matter of interest for the farmers of the **Hawkes Bay Region** and they constitute a sector of the public at large. Federated Farmers is in an appropriate position to represent that interest.

We wish to be heard in support of our further submissions.

If others make a similar further submission, we would be prepared to consider presenting a joint case with them at the hearing.

Federated Farmers acknowledges that by taking part in this public submission process the submission (including names and addresses) will be made public.



Peter Matich
Senior Regional Policy Advisor – Federated Farmers

Date 10 September 2020

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**Schedule of further submission points on Proposed Plan Change 7 - Outstanding Water Bodies
Hawkes Bay Regional Resource Management Plan**

Submission No.	The specific submission that my further submission relates to:	The particular parts of the submission I support or oppose are:	Submission Topic	The reasons for my support or opposition are:	Whether the whole or part of the submission be allowed or disallowed	If part of the submission, details of which part of the submission be allowed or disallowed
1	Bayliss, K.	Oppose Stat #9	C7 General	The requested amendment to prohibit dams and diversions in outstanding water bodies is neither necessary nor appropriate to promote the purpose of sustainable resource management, nor to recognise and provide for relevant matters of national importance in the Resource Management Act.	Disallow submission	
3	Brownrigg Agriculture Group Ltd	Support Stat #1	C7 Schedule 25.2	Supports submitter's opposition to water bodies being identified as outstanding when there have not been any values described in Schedule 25	Allow submission	
3	Brownrigg Agriculture Group Ltd	Support Stat #6 to #35 inclusive	C7 Sch25 various listed waterbodies	Supports submitter's opposition to water bodies being identified as outstanding when there have not been any values described in Schedule 25	Allow submission	
4	Central Hawkes Bay District Council	Support in part Stat #1	C7 Pol LW3A Gen	Values of outstanding water bodies need to be identified and described if Outstanding Water Body classification is going to affect resource consent applications for activities identified in Policy LW3A.2.	Allow submission in part	Unless values are described for identified outstanding water bodies, effects of proposed activities in resource consent applications or Farm Environment Plans will not be able to be consistently assessed. This will result in inconsistent and patchy environmental outcomes
4	Central Hawkes Bay District Council	Support in part Stat #2	C7 Pol C2 Gen	Values of outstanding water bodies need to be identified and described if Outstanding Water Body classification is going to affect resource consent applications for land use activities (including water takes, diversion, damming and discharges).	Allow submission in part	Unless values are described for identified outstanding water bodies, effects of proposed activities in resource consent applications or Farm Environment

						Plans will not be able to be consistently assessed. This will result in inconsistent and patchy environmental outcomes
4	Central Hawkes Bay District Council	Support Stat #3	C7 Schedule 25	It is crucial to have more detail in the 'description of outstanding values' for each identified Outstanding Water Body in order to provide certainty of expectations around environmental outcomes when assessing adverse effects.	Allow submission	
5	Department of Conservation	Oppose in part Stat #3	C7 General	It is important for Plan Change 7 to include strict evaluation criteria which can underpin identification of outstanding water bodies. However, this should not just apply to future outstanding water body identification – it should also apply equally to current outstanding water bodies included in the Plan Change. Schedule 25 should be considered an exhaustive list, otherwise there is no certainty for plan users about what an Outstanding Water Body is.	Disallow submission in part	Include strict evaluation criteria that underpin identification and evaluation of all outstanding water bodies, and apply such criteria equally to all outstanding water bodies in the Plan Change. If evaluation criteria have not been applied to any particular water body in Schedule 25, then that water body should be deleted from the Plan Change. Schedule 25 should contain the definitive list of identified outstanding water bodies that are managed by the RRMP framework.
5	Department of Conservation	Oppose Stat #4	C7 General Process	There is no practical way to ensure that Plan Change 7 and Plan Change 9 are in place at the same time, or that Plan Change 7 will be in place sooner. These are two different plan change processes, and each must independently follow the Schedule 1 process set forth in the Resource Management Act. There are so many variables determining the outcome and timing of each plan change that it would be preposterous to insist that one should be in place prior to the other.	Disallow submission	

5	Department of Conservation	Oppose in part Stat #5	C7 Obj LW1.1	Objective LW1.1 should be retained provided that it is amended to recognise use of water for farming as a prevailing value of freshwater bodies where identified outstanding water bodies provide a freshwater resource that is extensively relied upon by farming.	Disallow submission in part	Objective LW1.1 should not be retained unless it is amended to recognise use of water for farming as a prevailing value of freshwater bodies where identified outstanding water bodies provide a freshwater resource that is extensively relied upon by farming.
5	Department of Conservation	Oppose in part Stat #6	C7 POL LW1.1	Policy LW1.1 should be retained provided that it is amended as follows: That Policy LW1.1 (c) C describes that the first step is to assess water bodies to determine which ones are outstanding using the criteria in Schedule 25. That Policy LW1.1 (d) A be amended to apply 'where appropriate' (rather than 'where necessary')	Disallow submission in part	Policy LW1.1 should not be retained unless it is amended to reflect assessment criteria in Schedule 25 and to take account of other values that may render absolute protection of some aspects inappropriate in some situations, and that in such situations, other management tools should be considered.
5	Department of Conservation	Oppose Stat #7	C7 POL LW3A General	The requested amendments to Policy LW3A.1 are inappropriate. It may be perfectly appropriate, and even desirable, to grant resource consent where there is a more than minor effect on any particular outstanding value(s) in question, depending on the circumstances giving rise to the proposed activity, and the way in which adverse effects may be managed/avoided/remedied/mitigated or offset.	Disallow submission	
5	Department of Conservation	Support in part Stat #8	C7 POL C1	The requested amendment to Pol C1.1 i) needs further amendment to recognise that adverse effects which do not materially reduce 'outstanding values' should be able to be tolerated if these effects are managed through remediation or mitigation, rather than seeking complete avoidance.	Allow submission in part	Adverse effects which do not materially reduce 'outstanding values' should be able to be tolerated if it is appropriate to manage such effects through remediation or mitigation, rather than seeking complete avoidance.

5	Department of Conservation	Oppose Stat #10	C7 Glossary Gen	'Water body' is defined in section 2 of the Resource Management Act, thus: "means water ... in a wetland...". So a <i>wetland</i> can't be a water body, although it could include a water body. However, wetlands may include land that is predominantly <i>terra firma</i> and therefore cannot be a 'water body' as such. Therefore, the definition of 'Outstanding water body' does not need amending to include <i>wetlands</i> .	Disallow submission	
5	Department of Conservation	Oppose in part Stat #11	C7 Glossary 'Outstanding'	The proposed definition of <i>outstanding</i> should be amended to relate to a national basis and not to the context of the Hawes Bay Region	Disallow submission in part	The proposed definition of <i>outstanding</i> should be amended to relate to that which is " <i>conspicuous, eminent and remarkable on a national basis</i> " and not "in the context of the Hawes Bay Region".
5	Department of Conservation	Oppose Stat #12	C7 Glossary 'Outstanding Value'	The submitter has sought a definition for 'outstanding value' but has not suggested what this might be. Therefore, there is nothing to consider and this submission should be disallowed	Disallow submission	
5	Department of Conservation	Oppose Stat #13	C7 Glossary General	The submitter has sought a definition for 'significant value' but has not suggested what this might be. Therefore, there is nothing to consider and this submission should be disallowed	Disallow submission	
5	Department of Conservation	Support in part Stat #14	C7 General	It may be helpful for criteria used to identify Primary Production as a significant value to be addressed in the proposed plan	Allow the submission	There may be a range of criteria including: <ul style="list-style-type: none"> • prevalence of primary production land use which relies on the freshwater resource, • contribution of primary production to regional GDP, amongst others. All such criteria should be explored as part of evaluation of alternatives pursuant to section 32 of the RMA

5	Department of Conservation	Oppose Stat #15 to 24 inclusive	C7 Sch25 (various)	The values tabled in “Appendix A Additions to significant values for Outstanding Water Bodies” attached to the submitter’s submission, are mostly minimalist and quite vague general concepts such as ‘naturalness’, ‘geological’ ‘ecological’ ‘landscape’ etc, and there is no supporting evaluation of why such suggested value-concepts should be added	Disallow submission	
8	Ernslaw One Ltd	Support Stat #1	C7 Gen NatPolicy	There is no need for Plan Change 7 to duplicate other regulatory provisions which already exist, e.g. where regulations affecting coastal water are different to regulations affecting freshwater	Allow submission	
8	Ernslaw One Ltd	Support Stat #2	C7 Gen NatPolicy	Provisions for coastal waters are combined in a confusing way with provisions for freshwater	Allow submission	
8	Ernslaw One Ltd	Support Stat #4	C7 Gen NatPolicy	Provisions that give effect to policies 11, 13 15 and 17 of the NZCPS should be separated out from the other provisions of PC7	Allow submission	
8	Ernslaw One Ltd	Support Stat #5	C7 Gen NatPolicy	Coastal waters should be managed in a different way to outstanding freshwater bodies	Allow submission	
8	Ernslaw One Ltd	Support Stat #6	C7 Obj LW1.1	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	
8	Ernslaw One Ltd	Support Stat #7	C7 Pol LW1.1	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	
8	Ernslaw One Ltd	Support Stat #8	C7 Pol LW1.1	The phrase “ <i>and any other values that are determined to be relevant taking into account local and/or regional circumstances</i> ” should be deleted from the policy. Otherwise, there is considerable uncertainty as to how an Outstanding Water Body is to be identified, and potential for costly and drawn-out argument about who is doing the determination of relevancy.	Allow submission	Note that the summary of submissions notified by HBRC appears to summarise this submitter’s submission point incorrectly.
8	Ernslaw One Ltd	Support Stat #9	C7 Pol LW1.2	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	
8	Ernslaw One Ltd	Support Stat #10	C7 Pol LW1.2	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	

8	Ernslaw One Ltd	Support in part Stat #13	C7 Pol LW3A.1	In the face of other uncertainties in PC7 policies around how outstanding values are to be determined, this policy is inappropriate.	Allow submission	In the absence of clear policy to determine what constitutes 'outstanding' elsewhere in PC7, it is inappropriate to prioritise protection of outstanding values above significant values.
8	Ernslaw One Ltd	Support Stat #16	C7 C3.2 Gen	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	
8	Ernslaw One Ltd	Support Stat #17	C7 Glossary 'OWB'	The focus of PC7 should be on outstanding freshwater bodies	Allow submission	
10	Forest & Bird	Oppose in part Stat #1	C7 Obj LW1.1	The focus of PC7 should be on outstanding freshwater bodies	Disallow submission in part	Disallow inclusion of coastal waters
10	Forest & Bird	Oppose in part Stat #3	C7 Pol LW1.1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. However, the submitter's relief sought referencing ' <u>criteria set out in Schedule X</u> ' is inappropriate. The submitter has not explicitly included a 'Schedule X' in their submission. They have included a table in 'Appendix 1' to their submission, but the criteria in that table are inadequate for determining significance on outstanding water bodies.	Disallow submission in part	Disallow reference to 'Schedule X' in the submission. Disallow criteria in table in Appendix 1 attached to submitter's submission.
10	Forest & Bird	Support in part Stat #4	C7 General	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. However, the submitter's relief sought referencing ' <u>criteria set out in Schedule X</u> ' is inappropriate. The submitter has not explicitly included a 'Schedule X' in their submission. They have included a table in 'Appendix 1' to their submission, but the criteria in that table are inadequate for determining significance on outstanding water bodies.	Allow submission in part	Support that part of the submission calling for inclusion of criteria in PC 7 for determining what qualifies as 'outstanding'. The strikeout of 'Schedule 25', sought by the submitter, is inappropriate. Disallow criteria in table in Appendix 1 attached to submitter's submission.

10	Forest & Bird	Oppose Stat #5	C7 Pol LW1.1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.	Disallow submission	The strikeout of 'Schedule 25', sought by the submitter, is inappropriate
10	Forest & Bird	Oppose Stat #6	C7 Pol LW1.1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.	Disallow submission	The strikeout of 'Schedule 25', sought by the submitter, is inappropriate
10	Forest & Bird	Oppose Stat #7	C7 Pol LW1.2	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.	Disallow submission	The strikeout of 'Schedule 25', sought by the submitter, is inappropriate
10	Forest & Bird	Oppose Stat #8	C7 Pol LW1.2	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.	Disallow submission	The strikeout of 'Schedule 25' (that is included in the footnotes), as sought by the submitter, is inappropriate
10	Forest & Bird	Oppose Stat #11	C7 Pol LW2.1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.	Disallow submission	The strikeout of 'Schedule 25', as sought by the submitter, is inappropriate
10	Forest & Bird	Oppose Stat #12	C7 Pol LW3A.1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. Identifying other values through a consenting process is a haphazard approach to value-identification and will result in patchy environmental outcomes and inconsistency	Disallow submission	

				and uncertainty in application of the policy. The table in 'Appendix 1' to the submitter's submission are inadequate for determining significance on outstanding water bodies.		
10	Forest & Bird	Oppose Stat #13	C7 Pol LW3A.3	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. Identifying other values through a consenting process is a haphazard approach to value-identification and will result in patchy environmental outcomes and inconsistency and uncertainty in application of the policy.	Disallow submission	
10	Forest & Bird	Oppose Stat #14	C7 Ch3.1A AER#	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7. Identifying other values through any other process (such as consenting process) is a haphazard approach to value-identification and will result in patchy environmental outcomes and inconsistency and uncertainty in application of the policy.	Disallow submission	
10	Forest & Bird	Oppose Stat #15	C7 Obj 11	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7.	Disallow submission	The strikeout of 'identified in Schedule 25' sought by the submitter is inappropriate
10	Forest & Bird	Oppose Stat #17	C7 Pol C1	Outstanding water bodies should be assessed against specified criteria that should be included in the RRMP provisions in PC7.	Disallow submission	The strikeout of 'identified in Schedule 25' sought by the submitter is inappropriate. Values of outstanding water bodies may be able to be well protected through a range of regulatory and non-regulatory methods.
10	Forest & Bird	Oppose Stat #19	C7 Pol C2.3	Outstanding water bodies should only be assessed against specified criteria included in the RRMP provisions in PC7.	Disallow submission	
10	Forest & Bird	Oppose Stat #20	C7 Glossary 'OWB'	Outstanding water bodies should only be assessed against specified criteria included in the RRMP provisions in PC7.	Disallow submission	

				Identifying other values through any other process (such as consenting process) is a haphazard approach to value-identification and will result in patchy environmental outcomes and inconsistency and uncertainty in application of the policy. The submitter's relief sought referencing 'criteria set out in Schedule X' is inappropriate. The submitter has not explicitly included a 'Schedule X' in their submission. They have included a table in 'Appendix 1' to their submission, but the criteria in that table are inadequate for determining significance on outstanding water bodies.		
10	Forest & Bird	Oppose Stat #22	C7 Schedule 25.1	Inclusion of the word 'or' adds uncertainty to the assessment of natural character that implies that some aspects of natural character may be omitted or substituted when assessing outstandingness.	Disallow submission	
10	Forest & Bird	Oppose Stat #24	C7 Schedule 25	The criteria used by the expert panel to identify outstanding water bodies was not extensively consulted on and should not be assumed to be sufficiently robust to establish outstanding values.	Disallow submission	
10	Forest & Bird	Oppose Stat #26	C7 Schedule 25	Given the extent of primary production land use within Hawkes Bay Region, water bodies (including potentially outstanding water bodies may well be significant as a freshwater resource for primary production.	Disallow submission	
10	Forest & Bird	Oppose Stat #28	C7 Schedule 25.2	The criteria used by the expert panel to identify outstanding water bodies was not extensively consulted on and should not be assumed to be sufficiently robust to establish outstanding values.	Disallow submission	
10	Forest & Bird	Oppose Stat #29	C7 Schedule 25.2	It should not be assumed that water bodies included in a draft plan change are suitable for inclusion in a notified plan change. The plan change would need to be re-notified in such an event.	Disallow submission	
12	Genesis Energy Ltd	Support Stat #1	C7 Schedule 25	There may well be significant social and economic values associated with outstanding water bodies.	Allow submission	

12	Genesis Energy Ltd	Support in part Stat #5	C7 Gen Process	If the Section 32 Report for Plan Change 7 does not comply with statutory requirements set out in the RMA, then the decision(s) about which objective and policy option(s) to adopt in the notified plan change may be inappropriate	Allow submission in part	Clarification should be sought about which aspects of the section 32 report do not comply with statutory requirements, so that such points may be further scrutinised.
12	Genesis Energy Ltd	Support Stat #7	C7 Gen Process	Provisions for outstanding water bodies should be tailored to each particular waterbody, especially given the differences between small and discrete waterbodies in pristine natural environments (such as Lakes Rotoroa and Rototuna), and large water bodies which are extensively used (such as the Heretaunga Aquifer).	Allow submission	
12	Genesis Energy Ltd	Support Stat #8	C7 Pol LW3A Ge	Provisions for outstanding water bodies should be tailored to each particular waterbody, especially given the differences between small and discrete waterbodies in pristine natural environments (such as Lakes Rotoroa and Rototuna), and large water bodies which are extensively used (such as the Heretaunga Aquifer).	Allow submission	
12	Genesis Energy Ltd	Support Stat #9 and #11	C7 Glossary 'OWB'	The definition of <i>Outstanding Water Body</i> should be consistent with the NPSFM	Allow submission	
12	Genesis Energy Ltd	Support Stat #12 and #14	C7 Glossary 'outstanding'	<i>Regional context</i> is too-lax-a-criterion for assessing 'outstandingness', and is likely to capture aspects of waterbodies that are mundane (as opposed to 'outstanding'), resulting in unnecessary over-regulation.	Allow submission	
13	Hawkes Bay Fish & Game	Oppose Stat #1	C7 General	Any particular value that is not outstanding will be irrelevant when considering whether an outstanding water body is deserving of protection.	Disallow submission	
13	Hawkes Bay Fish & Game	Support in part Stat #2	C7 Obj LW1.1	Objective LW1 should reflect the NPSFM.	Allow the submission in part	Clarification should be sought from the submitter about exactly how they think Objective LW1 should be amended. Generic requests for relief are vague and meaningless

13	Hawkes Bay Fish & Game	Support in part Stat #3	C7 General	PC7 should reflect the NPSFM.	Allow the submission in part	Clarification should be sought from the submitter about exactly how they think PC7 should be amended. Generic requests for relief are vague and meaningless
15	Hawkes Bay Regional Council	Stat #2	C7 Pol LW1.1	Federated Farmers submitted against Policy LW1.1 Clause (cC) and therefore seeks that its submission apply to any amendment to Clause bA (i) of Policy LW1.2 which may arise from the submitter's submission.	Disallow submission in part	Federated Farmers submitted against Policy LW1.1 Clause (cC) and seeks that its relief apply to any amendment to Policy Lw1.2 (bA) (i) that may arise as a consequence of this submission point
15	Hawkes Bay Regional Council	Stat #3	C7 Pol LW1.2	Assessment of significant values of an outstanding water body should include spatial extent of those values if relevant	Allow submission	Assessment of significant values of an outstanding water body should include spatial extent of those values if relevant
15	Hawkes Bay Regional Council	Stat #4	C7 Pol LW1.2	Assessment of significant values of an outstanding water body should include spatial and/or temporal extent of those values if relevant	Allow submission	
15	Hawkes Bay Regional Council	Stat #5	C7 Pol LW1.2	Cross references between RRMP provisions can be helpful as long as the cross referencing is sensible	Allow submission	
15	Hawkes Bay Regional Council	Oppose Stat #6	C7 Pol LW1.2	An RRMP policy should not merely restate the Objectives of the NPSFM. Regional plan policy should state how the regional plan is going to give effect to the objectives of the NPSFM. In this regard, it is entirely appropriate to give effect to an NPSFM objective of <i>protection of outstanding water bodies</i> through an RRMP policy that manages activities in a manner which avoids adverse effects on outstanding water bodies.	Disallow submission	
15	Hawkes Bay Regional Council	Stat #7	C7 Pol LW2.1	Policy LW2.1 (bA) is an interim policy that should not apply once relevant catchment-based regional plan changes become operative	Allow submission	
15	Hawkes Bay Regional Council	Stat #8	C7 Pol C1	Assessment of significant values of an Outstanding Water Body should include spatial extent of those values if relevant	Allow submission	Assessment of significant values of an outstanding water body should

						include spatial extent of those values if relevant
15	Hawkes Bay Regional Council	Oppose Stat #10	C7 Pol C1	An RRMP policy should not merely restate the Objectives of the NPSFM. The policy should state how the regional plan is going to give effect to the objectives of the NPSFM. In this regard, it is entirely appropriate to give effect to an NPSFM objective of <i>protection of outstanding water bodies</i> through an RRMP policy that manages activities in a manner which avoids adverse effects on outstanding water bodies.	Disallow submission	
15	Hawkes Bay Regional Council	Oppose in part Stat #13	Schedule 25 Part 2	PC9 (TANK Plan Change) has now been notified	Disallow submission in part	PC7 needs correcting to reflect notified status of PC9 (TANK) Plan Change
15	Hawkes Bay Regional Council	Oppose Stat #15	Schedule 25 Part 2	In notifying PC7, the Hawkes Bay Regional Council knowingly publicly notified a deficient plan change. There are significant portions of the community who have no idea why the outstanding water bodies identified in PC7 were included in the plan change. In the absence of supporting analysis in PC7, these 'nominated' waterbodies are just as unlikely (as likely) to warrant identification as outstanding water bodies. The plan change should be withdrawn and re-notified once a full analysis of the waterbodies to be included in the plan change has been completed	Disallow submission	
15	Hawkes Bay Regional Council	Oppose Stat #25	Schedule 25 Part 2	In notifying PC7, the Hawkes Bay Regional Council knowingly publicly notified a deficient plan change. There are significant portions of the community who have no idea why the outstanding water bodies identified in PC7 were included in the plan change. In the absence of supporting analysis in PC7, these 'nominated' waterbodies are just as unlikely (as likely) to warrant identification as outstanding water bodies. The plan change should be withdrawn and re-notified once a full analysis of the waterbodies to be included in the plan change has been completed	Disallow submission	

16	Hawkes Bay Winegrowers Association	Support Stat#1	C7 Pol LW3A.2	Water transfers between water users who are farmers or irrigators within a sub-catchment should be excluded from effects assessments in order to foster resilience and promote efficient water use.	Allow submission	
16	Hawkes Bay Winegrowers Association	Support Stat#2	C7 Pol LW3A.1	Resource consent applicants should not have to undertake assessments of significance of outstanding water bodies, especially as PC7 was notified without complete assessment of the values of outstanding water bodies.	Allow submission	
16	Hawkes Bay Winegrowers Association	Support in part Stat#3	C7 Sch25 Tukituki	Domestic water supply, primary production water use (including for associated processing) should be included in the significant values for the Tukituki River if it is to be identified as an Outstanding Water Body	Allow the submission in part	Domestic water supply, primary production water use (including for associated processing) should be included in the significant values for the Tukituki River
16	Hawkes Bay Winegrowers Association	Support in part Stat#4	C7 Sch25 Ruataniwha Aquifer	Domestic water supply, primary production water use (including for associated processing) should be included in the significant values for the Ruataniwha Aquifer if it is to be identified as an Outstanding Water Body	Allow the submission in part	Domestic water supply, primary production water use (including for associated processing) should be included in the significant values for the Ruataniwha Aquifer
17	Hawkes Bay Airport Ltd	Support Stat #1	C7 Schedule 25.2	Support the submitter's opposition to identification of any water body as outstanding when significant values of such water body are not known	Allow submission	
17	Hawkes Bay Airport Ltd	Support Stat #3	C7 Pol LW3A Gen	Support the submitter's opposition to Policy LW3A being included in PC7 before significant values of any Outstanding Water Body have been identified	Allow submission	
17	Hawkes Bay Airport Ltd	Support Stat #4	C7 Pol C2 Gen	Support the submitter's opposition to Policy C2 being included in PC7 before significant values of any Outstanding Water Body have been identified	Allow submission	
17	Hawkes Bay Airport Ltd	Support Stat #6 #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29, #30, #31, #32, #33, #34, #35	C7 Schedule 25 –	Support the submitter's opposition to the identified waterbodies in these submission points being included in PC7 before significant values of any Outstanding Water Body have been identified	Allow submission	

17	Hawkes Bay Airport Ltd	Support Stat #36	C7 Pol LW3A Gen	Support the submitter's opposition to Policy LW3A being included in PC7 before significant values of any Outstanding Water Body have been identified	Allow submission	
17	Hawkes Bay Airport Ltd	Support Stat #37	C7 Pol C2 Gen	Support the submitter's opposition to Policy C2 being included in PC7 before significant values of any Outstanding Water Body have been identified	Allow submission	
18	Hineuru Iwi Trust	Support in part Stat #1	C7 Gen process	Ngati Hineuru should be involved in identifying substantial cultural significance of waterbodies of importance to them, just as everyone else in the community should be involved in identifying values of significance in other respects.	Allow submission	
19	Horticulture NZ	Support Stat #1	C7 General	PC7 should not require protection of waterbodies as outstanding water bodies, when the values that are needed to establish significance as outstanding water bodies have not been identified.	Allow submission	
19	Horticulture NZ	Support Stat #2	C7 General	PC7 should not prioritise protection of waterbodies as outstanding water bodies, when the values that are needed to establish significance as outstanding water bodies have not been identified	Allow submission	
19	Horticulture NZ	Support Stat #3	C7 Schedule 25	Economic and consumptive use values should be considered in the outstanding and significant values of outstanding water bodies	Allow submission	
19	Horticulture NZ	Support Stat #4	C7 General	The ability to balance consumptive and non-consumptive competing values should be maintained without resorting to a <i>hierarchy of importance</i>	Allow submission	
19	Horticulture NZ	Support Stat #5	C7 Schedule 25	Only water bodies which are truly remarkable on a national basis should be included as identified outstanding water bodies	Allow submission	
19	Horticulture NZ	Support Stat #7	C7 Schedule 25	A delated explanation of any water body that is to be identified as an Outstanding Water Body should be included in the plan change	Allow submission	
19	Horticulture NZ	Support Stat #8	C7 Schedule 25 Heretaunga Aquifer	Heretaunga Aquifer should not be identified as an Outstanding Water Body due to significant implications for primary producers	Allow submission	

19	Horticulture NZ	Support Stat #9	C7 Schedule 25 Ruataniwha Aquifer	Ruataniwha Aquifer should not be identified as an Outstanding Water Body due to significant implications for primary producers	Allow submission	
19	Horticulture NZ	Support Stat #12	C7 Pol LW3A.1	The ability for a decision maker to require changes to a location of an activity or impose additional time limits is neither reasonable nor necessary	Allow submission	
19	Horticulture NZ	Support Stat #13	C7 Pol LW3A.1	The proposed hierarchy of importance is not appropriate	Allow submission	
19	Horticulture NZ	Support Stat #19 to #37 inclusive	C7 Sch25 various listed water bodies	Support deletion of the waterbodies requested in the submitter's submission points	Allow submission	
20	Jet Boating NZ	Oppose Stat#1 and Stat #3	C7 Misc and C7 Sch25 Ngaruroro	The values of the braided reach of the Ngaruroro River from Whanawhana to Fernhill Bridge as outstanding for jet boating is questionable.	Disallow submission	
23	Napier City Council	Oppose in part Stat#1	C7 Pol C2 Gen	Coastal water should not be considered in PC7 , because PC7 should deal with freshwater bodies only	Disallow submission	Disallow the submission seeking inclusion of reference to review of the coastal plan
25	Ngamatea Farming Company Ltd	Support Stat #1	C7 Schedule 25.2	Supports submitter's opposition to 38 water bodies being identified on the basis of their comparative regional importance. Whether or not water bodies have regional significance should not be a relevant criterion for consideration as to 'outstandingness'.	Allow submission	
25	Ngamatea Farming Company Ltd	Support Stat #3	C7 Schedule 25.2	Supports submitter's opposition to water bodies being identified as outstanding when there have not been any values described in Schedule 25	Allow submission	
26	Ngati Kahungungu Iwi Inc, Te Taiwhenua o Ngati Kahungungu Iwi Inc, TTOH, et al.	Support in part Stat #1	C7 Gen NatPolicy	Including coastal water or estuaries in PC7 is inappropriate as the definition of water body in the RMA does not include coastal waters	Allow in part the submission	Do not include coastal waters and estuaries in the assessment of outstanding water bodies identified in PC7
27	Ngati Kahungungu Wairoa Taiwhenua Inc.	Oppose Stat #2	C7 Schedule 25.2	Do not include all water bodies above and below ground in Wairoa District as a single Outstanding Water Body - the reasons provided by the submitter do not justify such extreme action.	Disallow submission	
32	Pernod Ricard Winemakers NZ Ltd	Support Stat #1	C7 Schedule 25.2	It is not appropriate to identify water bodies as 'outstanding' without evidence or justification	Allow submission	

32	Pernod Ricard Winemakers NZ Ltd	Support Stat #2 to #5 inclusive	C7 Schedule 25 various waterbodies	Support submitter's opposition to Heretaunga Aquifer, Ngaruroro River, Tutaekuri River, Tukituki River being identified as outstanding water bodies due to significant implications for primary producers.	Allow submission	
32	Pernod Ricard Winemakers NZ Ltd	Support Stat #6	C7 Schedule 25.2	Support submitter's request to delete water bodies that are not truly outstanding on a national basis from Schedule 25	Allow submission	
37	Transpower NZ Ltd	Support Stat #1	C7 Pol LW1.2	Where a National Grid has a functional or operational need to locate in an outstanding water body, then there should be a hierarchy of considerations that are related to the severity of adverse effects on that outstanding water body so that adverse effects can be avoided, remedied or mitigated to the extent practicable, because it may not be possible or practicable to relocate the National Grid outside such outstanding water body.	Allow submission	
37	Transpower NZ Ltd	Support Stat #2	C7 Pol C1	Where a National Grid has a functional or operational need to locate in an outstanding water body, then there should be a hierarchy of considerations that are related to the severity of adverse effects on that outstanding water body so that adverse effects can be avoided, remedied or mitigated to the extent practicable, because it may not be possible or practicable to relocate the National Grid outside such outstanding water body.	Allow submission	
37	Transpower NZ Ltd	Support in part Stat #3	C7 Pol LW3A.1	Where a National Grid has a functional or operational need to locate in an outstanding water body, then there should be consideration of adverse effects on that outstanding water body so that adverse effects can be avoided, remedied or mitigated to the extent practicable, because it may not be possible or practicable to relocate the National Grid outside such outstanding water body.	Allow submission in part	Further amend the submitter's submission point in (e) iii.; thus: iii. The extent to which adverse effects have been avoided, remedied or mitigated <u>to the extent practicable</u> , by route, site and method selection process.
37	Transpower NZ Ltd	Support in part Stat #4	C7 Pol C2.1	Where a National Grid has a functional or operational need to locate in an outstanding water	Allow submission in part	Further amend the submitter's submission point in (e) iii.; thus:

				body, then there should be consideration of adverse effects on that outstanding water body so that adverse effects can be avoided, remedied or mitigated to the extent practicable, because it may not be possible or practicable to relocate the National Grid outside such outstanding water body.		iii. The extent to which adverse effects have been avoided, remedied or mitigated <u>to the extent practicable</u> , by route, site and method selection process.
38	Trust Power	Support in part Stat #1	C7 Schedule 25	Where there is only regional significance attached to a water body, such water body should not be included in plan provisions aimed at protecting outstanding water bodies. In such cases, the aspects of regional significance may be addressed in a relevant catchment-specific plan	Allow submission in part	Amend submitter's implied relief as follows: 'those water bodies which have been identified as outstanding solely for cultural and spiritual <u>regionally significant</u> values should be deleted from Schedule 25. <u>The appropriate place for such water bodies may be in a catchment-specific plan change.</u> '
38	Trust Power	Support Stat #2	C7 Glossary 'OWB'	Outstanding water bodies should be outstanding in their own right, and the threshold should be very high, being 'quite out of the ordinary on a national basis'.	Allow submission	
38	Trust Power	Support Stat #3	C7 Schedule 25	Water bodies which have similar values to other water bodies across the region should be deleted.	Allow submission	
38	Trust Power	Oppose Stat #10	C7 Glossary 'OWB'	'Regional significance' is an inappropriate criterion for identifying outstanding water bodies. Outstanding water bodies should be outstanding in their own right, and the threshold should be very high, being 'quite out of the ordinary on a national basis'.	Disallow submission	
38	Trust Power	Oppose in part Stat #25 to Stat #44 inclusive	C7 Sch25 various waterbodies	These water bodies should be deleted from Schedule 25 unless the values which render them significant as outstanding water bodies are clearly identified and included in the table in Schedule 25.	Disallow submission in part	Remove water bodies which do not include values which render them significant as outstanding water bodies.

38	Trust Power	Support Stat #45 to Stat #62 inclusive	C7 Sch25 various waterbodies	These water bodies should be deleted from Schedule 25.	Allow submission	
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Attachment 3: Federated Farmers response to specific recommendations in the Reporting Officers S42A Report

Provision Reference	FFNZ submission/ further submission	S42A Staff recommendation	FFNZ comment on s42A recommendations
Definition of Outstanding water body	<p>That more than one criterion be met before a water body is classified as outstanding in the definition.</p> <p>That water use and land for primary production be included as outstanding values in the definition.</p>	<p>(a) Retain the definitions of 'outstanding' and 'outstanding water bodies' in Change 7 as notified.</p> <p>(b) That the hearing panel allow, allow in part, or reject the submissions and the further submissions on Change 7 set out in Appendix 2 Report 2.1 for reasons including those set out below.</p> <p>Outstanding water body means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s).</p>	<p>Federated Farmers submit that the definition of outstanding water body should have more than just one outstanding value to be worthy of classification as 'outstanding'.</p> <p>Federated Farmers are concerned that insufficiently weighty criteria in the definition will result in inappropriate restrictions being brought to bear on many waterbodies that do not deserve the 'outstanding' epithet. To do this may end up with needless assessments of effects on waterbodies for little or no environmental benefit.</p>
Definition of Outstanding	<p>That the definition be amended as follows:</p> <p><i>Outstanding for the purposes of an outstanding water body; outstanding means conspicuous, eminent, and/or remarkable <u>on a national basis. in the context of the Hawke's Bay Region.</u></i></p>	<p>(a) Retain the definitions of 'outstanding' and 'outstanding water bodies' in Change 7 as notified.</p> <p>(b) That the hearing panel allow, allow in part, or reject the submissions and the further submissions on Change 7 set out in Appendix 2 Report 2.1 for reasons including those set out below.</p> <p>Outstanding for the purposes of an outstanding water body; outstanding means conspicuous, eminent, and/or remarkable in the context of the Hawke's Bay Region.</p>	<p>Federated Farmers seek that this definition be amended to refer to water bodies that are outstanding on a national basis, instead of being outstanding merely on a regional basis.</p> <p>Federated Farmers are concerned that referring to a 'regional basis' will mean that inappropriate restrictions will be brought to bear on many waterbodies that do not deserve the 'outstanding' epithet. To do this may end up with needless assessments of effects on waterbodies for little or no environmental benefit.</p>
OBJ LW1.1	<p>That the objective be amended to provide for RMA Section 14(3)(b) takes and uses in outstanding water bodies.</p>	<p>Remains unchanged from notified version</p> <p>Integrated management of fresh water and land use and development Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes:</p>	<p>Clause 1.3(5) of the NPSFM 2020, sets out a hierarchy of obligations in regard to <i>Te Mana o te Wai</i>, which includes: as a second tier priority - the health needs of people such as drinking water; and as a third tier priority - the ability of people and</p>

	<p>The land use for farming be recognised and provided for in outstanding water bodies.</p> <p>That there be a clear ranking between 'outstanding', 'significant', 'regional', 'significant regional' and 'national' values, so that there is no confusion about which is afforded priority over other matters.</p>	<p>1. protecting the <u>outstanding and significant values</u> quality of outstanding freshwater bodies <u>identified listed</u> in <u>Schedule 25 Hawke's Bay</u>;</p> <p>...</p>	<p>communities to provide for their social, economic and cultural well-being. These priorities encompass aspects of RMA Section 14(3)(b) uses of water (despite the reporting officer's assertion that s14(3)(b) takes won't be affected by PC7).</p> <p>Therefore, it would be useful to understand how these NPSFM priorities are to be applied through the RPS objective and policy framework in relation to the protection of outstanding and significant values of OWBs. If there is no guidance, there will be a high degree of uncertainty around how Section 14(3)(b) takes are to be regarded where the values of OWBs are concerned, especially given that there are some quite large OWBs in Schedule 25, e.g. the Heretaunga and Ruataniwha Aquifers, which affect hundreds of water resource users and that PC7 envisages augmenting OWB assessments on a case-by-case basis with resource consent applications.</p>
<p>POL LW1</p>	<p>That Policy LW1.1 cC be amended to refer to only using criteria in Schedule 25 Part 1 Table 1</p> <p>That the phrase 'any other values that are determined to be relevant' be deleted from Policy LW1.1 cC.</p> <p>That Policy LW1.1 dA be further amended so that <i>enhancement</i> of water quality is only to be achieved <i>where appropriate</i> (instead of 'where necessary')</p> <p>That the Policy LW1.1 dA be amended to provide for RMA Section</p>	<p>Pol LW1.1.cC to be deleted.</p> <p>Problem solving approach - Catchment-based integrated management</p> <p>1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:</p> <p>...</p> <p>cC assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of these water bodies. This assessment include consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional circumstances.</p>	<p>Federated Farmers support the reporting officer's recommended deletion of POL LW1.1 cC and insertion of this in POL LW1.2 bA) as this policy is more appropriate as a requirement in preparing regional plans.</p> <p>This means that '<i>any other values</i>' can be assessed and their merits considered as part of a regional plan change process, without pre-determination of what these values might be.</p> <p>Federated Farmers support in part the reporting officer's recommended new clause POL LW1.2 iA) but seek the</p>

	<p>14(3)(b) takes and uses in outstanding water bodies, as well as to provide for new water takes for other uses.</p> <p>That <i>spatial and temporal extent</i> be retained in Policy LW1.2 bA) i) as these are important in defining and limiting the areas and times where and when the outstanding values of water bodies are present.</p> <p>That Policy LW1.2 bA be amended to recognise RMA Section 14(3)(b) takes have only minor effects on outstanding water bodies.</p> <p>That Policy LW1.2 bA iii) be amended to provide for managing adverse effects which do not materially reduce the outstanding values present in outstanding water bodies through means such as remediation or mitigation, because complete avoidance of adverse effects may not be appropriate in all circumstances.</p>	<p>d) protects the outstanding and significant values of those outstanding water bodies identified in Schedule 25;</p> <p>dA) maintains, and where necessary enhances, the water quality of those outstanding water bodies identified in Schedule 25, and where appropriate, protects the water quantity of those outstanding water bodies;</p> <p>1. When preparing regional plans: ...</p> <p>POL LW1.2. bA) to be amended as follows:</p> <p>bA) in relation to any relevant outstanding water bodies identified in Schedule 25:</p> <p>i) carry out an assessment which identifies the significant values of that outstanding water body and the spatial and/or temporal extent of those values as relevant. This assessment includes consideration of the values set out in Appendix 1 of the National Policy Statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional circumstances;</p> <p>iA) <u>identify the spatial extent of the outstanding and significant values, as relevant;</u></p> <p>ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods.</p> <p>iii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.</p> <p>And that POL LW1 to otherwise remain unchanged from notified version.</p>	<p>addition of the phrase '<u>including whether values have temporary or permanent characteristics</u>' at the end of this clause.</p> <p>Federated Farmers submitted in support of the word 'temporal' in the policy (as notified) and consider that a <i>time-bound aspect</i> may be a relevant consideration when assessing outstanding or significant values.</p> <p>In regard to Federated Farmers' submission seeking a further amendment to the RPS recognising the effect of RMA Section 14(3)(b) takes on OWBs, Clause 1.3(5) of the NPSFM 2020, sets out a hierarchy of obligations in regard to <i>Te Mana o te Wai</i>, which includes: as a second tier priority - the health needs of people such as drinking water; and as a third tier priority - the ability of people and communities to provide for their social, economic and cultural well-being. These priorities encompass aspects of RMA Section 14(3)(b) uses of water (despite the reporting officer's assertion that s14(3)(b) takes won't be affected by PC7)</p> <p>Therefore, it would be useful to understand how these NPSFM priorities are to be applied through the RPS objective and policy framework in relation to the protection of outstanding and significant values of OWBs. If there is no guidance, there will be a high degree of uncertainty around how Section 14(3)(b) takes are to be regarded where the values of OWBs are concerned, especially given that there are some quite large OWBs in Schedule 25, e.g. the Heretaunga and Ruataniwha Aquifers, which affect hundreds of water resource users.</p>
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			<p>Federated Farmers submit that the effects of RMA Section 14(3)(b) takes on the values of OWBs are likely to be minor, given the large geographical areas of the catchments of many of the OWBs in Schedule 25. Further, the RPS policy framework should provide for managing adverse effects which do not materially reduce the outstanding values present in outstanding water bodies through means such as remediation or mitigation, because complete avoidance of adverse effects may not be appropriate in all circumstances.</p>
<p>POL LW2</p>	<p>That RMA section 14(3)(b) takes and uses be incorporated into Policy LW2 as having 'allowed' status when prioritizing values</p> <p>That water and land use for farming be included as primary values in Table 2A.</p> <p>Federated Farmers' submission seeks that (amongst other items listed in Schedule 25) the Heretaunga Aquifer, the lower Mohaka catchment, and the Tukituki catchment, not be included in Schedule 25 as OWBs.</p>	<p>That POL LW2.1 be amended with the following additional clause:</p> <p>Problem solving approach - Prioritising values</p> <p>Subject to achieving Policy LW1.3:</p> <p>1.</p> <p>b) Policy LW 2.1 applies:</p> <p>i) When preparing regional plans for the specified catchments</p> <p><u>bA) Policy LW2.1 does not apply after a regional plan implementing the 2020 National Policy Statement for Freshwater Management for the specified catchments is made operative.</u></p> <p>...</p> <p>c) Values and uses of water bodies in these catchment areas⁷ will be prioritised as follows:</p> <p>i) Protecting outstanding values of any outstanding waterbody in Schedule 25, then</p> <p>ii) Protecting significant values of any outstanding waterbody in Schedule 25, then</p> <p>iii) Maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 2A, then</p> <p>iv) Having particular regard to the secondary values and uses of freshwater bodies identified in Table 2A, then</p>	<p>Federated Farmers support the reporting officer's recommended insertion of additional clause POL LW2.1 bA) making this an interim policy pending the advent of an operative regional plan prepared under the NPSFM 2020.</p> <p>However, the approach taken by the Council in structuring PC7 to be augmented in subsequent catchment-specific plan changes, has some advantages and some disadvantages. The main disadvantage with a rolling review approach arises from the more piecemeal nature of plan changes, and the difficulties in integrating different modules of each subsequent plan change within the overall planning framework. Such difficulties are made worse where information is lacking. It is these kinds of difficulties which are the source of concern behind Federated Farmers' submissions</p> <p>Federated Farmers' submission seeks that the Heretaunga Aquifer, the lower Mohaka catchment, and the Tukituki</p>

		<p>v) For values not specified in Table 2A or Schedule 25, the management approach set out in Policy LW 1 will apply</p> <p>vi) Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 2A, using an integrated catchment-based process in accordance with Policy LW 1. or when considering resource consent applications where no catchment-based regional plan has been prepared.</p> <p>2. In relation to catchments not specified in Policy LW2.1, the management approach set out in Policy LW 1. will apply.</p> <p>⁷ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.</p> <p>And that POL LW2 to otherwise remain unchanged from notified version.</p>	<p>catchment (which are all affected by this policy), not be included in Schedule 25 as OWBs.</p> <p>In regard to Federated Farmers' submission seeking a further amendment recognising the effect of RMA Section 14(3)(b) takes on OWBs, Clause 1.3(5) of the NPSFM 2020, sets out a hierarchy of obligations in Te Mana o te Wai, which includes: as a second tier priority - the health needs of people such as drinking water; and as a third tier priority - the ability of people and communities to provide for their social, economic and cultural well-being. These priorities encompass aspects of RMA Section 14(3)(b) uses of water (despite the reporting officer's assertion that s14(3)(b) takes won't be affected by PC7).</p> <p>Therefore, it would be useful to understand how these NPSFM priorities are to be applied through the RPS objective and policy framework in relation to the protection of outstanding and significant values of OWBs. There are some quite large OWBs in Schedule 25, e.g. the Heretaunga and Ruataniwha Aquifers, which affect hundreds of water resource users. If farming and primary production values are not included in Table 2A of POL LW2, then Federated Farmers seek that these values be included as outstanding or significant values of OWBs listed in Schedule 25.</p>
<p>Policy LW3A</p>	<p>That the policy be amended so that regional plan rule regimes need to be tailored to each particular outstanding water body and its values, rather than blanket rules applying to them all.</p>	<p>That POL LW3A be amended as follows:</p> <p>Decision Making Criteria – Outstanding Water Bodies</p> <p>1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change⁹ is operative or after 31 December 2025, whichever is</p>	<p>Federated Farmers support in part the reporting officer's recommended amendments in POL LW3A.1 and POL LW3A.2.</p>

	<p>The mechanism for protecting OWBs should be that activities should avoid, remedy or mitigate their adverse effects on identified outstanding water bodies (rather than having the activities protecting the outstanding water bodies <i>per se.</i>)</p>	<p>sooner, a consent authority must <u>take into account</u> have regard to:</p> <ol style="list-style-type: none"> a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody c. whether, in order to protect the waterbody's outstanding values and significant values: <ol style="list-style-type: none"> i. the location of the proposed activity is appropriate ii. time limits, including seasonal or other limits on the activity may be appropriate. d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference. <p>2. Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a noncomplying activity by a rule in a regional plan <u>(but not a regional coastal plan)</u>^{9a}:</p> <ol style="list-style-type: none"> a. a take, use, damming, or diversion of water from an outstanding waterbody b. a change to any existing take, use, damming or diversion of water from an outstanding waterbody c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody e. a land use consent for any new structure in the bed of an outstanding waterbody f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent <p>3. Policy LW3A.1 only applies in the following circumstances:</p> <ol style="list-style-type: none"> a. where a description of the outstanding value(s) of the outstanding waterbody's outstanding value(s) is described stated in Schedule 25 and/or 	<p>Regional plan rule regimes need to be tailored to each particular outstanding water body and its values, rather than blanket rules applying to them all.</p> <p>However, Federated Farmers seek that the assessment criteria for protecting OWBs in this policy should be that <u>activities should avoid, remedy or mitigate their adverse effects on identified outstanding water bodies, as appropriate, in order to achieve protection</u> (rather than having criteria about whether the activities would achieve protection by protecting the OWBs, which is tautological).</p>
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		<p>b. where a description of the significant value(s) of the outstanding waterbody 's significant value(s) is stated in Schedule 25.</p> <p>Principal reason and explanation Policy LW3A provides guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects, including adverse cumulative effects, on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors shall can be taken into account considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy LW3A takes effect after the objectives and limits have been set across the region and included in the Regional Resource Management Plan as required by the National Policy Statement for Freshwater Management.</p> <p>...</p> <p>^{9a} In relation to a rule in a regional coastal plan, then Policy C2 applies.</p> <p>...</p> <table border="1" data-bbox="837 831 1559 1129"> <thead> <tr> <th>Anticipated Environmental Results</th> <th>Indicator(s)</th> <th>Data Sources</th> </tr> </thead> <tbody> <tr> <td>7. Outstanding and significant values of outstanding water bodies are protected</td> <td>The outstanding and significant values for each outstanding water body identified in Schedule 25 are protected/identified. The significant values for each outstanding water body identified in Schedule 25 are protected using regulatory methods or non-regulatory methods, or both.</td> <td>Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme SOE monitoring and reporting Specific monitoring programmes</td> </tr> </tbody> </table> <p>And that POL LW3A remains otherwise unchanged.</p>	Anticipated Environmental Results	Indicator(s)	Data Sources	7. Outstanding and significant values of outstanding water bodies are protected	The outstanding and significant values for each outstanding water body identified in Schedule 25 are protected/identified. The significant values for each outstanding water body identified in Schedule 25 are protected using regulatory methods or non-regulatory methods, or both.	Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme SOE monitoring and reporting Specific monitoring programmes	
Anticipated Environmental Results	Indicator(s)	Data Sources							
7. Outstanding and significant values of outstanding water bodies are protected	The outstanding and significant values for each outstanding water body identified in Schedule 25 are protected/identified. The significant values for each outstanding water body identified in Schedule 25 are protected using regulatory methods or non-regulatory methods, or both.	Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme SOE monitoring and reporting Specific monitoring programmes							
OBJ 11	Federated Farmers submitted that objective is consistent with the NPS Freshwater Management	OBJ 11 remains unchanged from notified version. Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25. ...	Federated Farmers support OBJ 11 of the RPS as notified provided that the coastal environment boundary is properly mapped.						

		<p>That the Explanation and Reasons be amended as follows:</p> <p>3.2.8A Objective 11 aligns with provisions relating to outstanding freshwater bodies (Chapter 3.1A of the RRMP), and ensures a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies. The NPSFM specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water. Objective 11 assists in achieving integrated management between coastal and freshwater resources <u>ensuring that outstanding and significant values that span both the freshwater and coastal environments are protected.</u></p> <p>3.2.8B Objective 11 assists in giving effect to Objectives 1 and 2 and Policies 11, 13, 15 and 17 of the NZ Coastal Policy Statement, which requires the protection of significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment. <u>In some instances, Policies 11, 13 and 15 of the NZCPS contain direction that is more stringent than set out in the NPSFM. In those cases, the direction set out in the NZCPS applies (see Policies C1 and C2). Objective 11 allows the national direction contained in the respective NZCPS and NPSFM documents to be taken into account in decision making.</u></p> <p>...</p>	<p>At present, the coastal environment is unmapped and otherwise difficult to interpret objectively within the RPS, RRMP and RCP framework.</p> <p>If the coastal environment remains unmapped, OJB 11 should be deleted.</p>
<p>Policy C1</p>	<p>That <i>spatial and temporal extent</i> be retained in Policy C1 i) as these are important in defining and limiting the areas and times where and when the outstanding values of water bodies are present.</p> <p>That Policy C1 iii) be amended to provide for managing adverse effects which do not materially reduce the outstanding values present in outstanding water bodies through</p>	<p>That Policy C1 be amended as follows:</p> <p><u>Problem solving approach – outstanding water bodies in the coastal environment</u></p> <p>1. When preparing regional plans, in relation to any relevant outstanding waterbodies identified in Schedule 25:</p> <p>i) <u>Apply Policy LW1, except Policy LW1.2(bA)(iii):</u></p> <p>i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;</p> <p>ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be</p>	<p>(1) Federated Farmers' preference in the first instance is that:</p> <p>(i) the objectives and policies in PC7 as notified, which relate to the coastal environment, be deleted. This is because the <i>coastal environment</i> boundary is unmapped and otherwise difficult to interpret objectively within the RPS, RRMP and RCP framework.</p>

	<p>means such as remediation or mitigation, because complete avoidance of adverse effects may not be appropriate in all circumstances. Activities that have adverse effects that are less than minor do not need regional plan provisions.</p>	<p>protected by regulatory methods or non-regulatory methods or both; 10</p> <p>iii) ii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.;</p> <p><u>a. avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25 to give effect to Policy 11(a) of the New Zealand Coastal Policy Statement 2010;</u></p> <p><u>b. avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13(a) and 15(a) of the New Zealand Coastal Policy Statement 2010;</u></p> <p><u>c. avoids adverse effects that are more than minor on any other outstanding and significant values identified in Schedule 25.</u></p>	<p>(ii) Otherwise, Federated Farmers support the intent behind the reporting officer's wording for protecting significant indigenous biological diversity values, and protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body in an OWB, but consider that this is problematic to achieve in PC7, given the uncertainty around the boundary of the coastal environment presently constituted under the RPS, RRMP and RCP framework.</p> <p>(2) In the second instance, and without prejudice to the relief sought above, Federated Farmers seek that:</p> <p>(i) the way in which protection of outstanding water bodies gets achieved in the remainder of Policy C2 be via <i>avoidance, remediation or mitigation</i> of adverse effects, depending on the particular values and depending on the particular circumstances, as appropriate.</p> <p>(ii) the policy be amended so that regional plan rule regimes need to be tailored to each particular outstanding water body and its values, rather than blanket rules applying to them all.</p> <p>(iii) The policy framework be amended to provide for managing adverse effects which do not materially reduce the</p>
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			<p>outstanding values present in outstanding water bodies through means such as <i>remediation</i> or <i>mitigation</i>, because complete avoidance of adverse effects may not be appropriate in all circumstances. Activities that have adverse effects that are less than minor do not need regional plan provisions.</p>
<p>Policy C2</p>	<p>That the way in which protection of outstanding water bodies gets achieved in the policy be via avoidance, remediation or mitigation of adverse effects, depending on the particular values and depending on the particular circumstances, as appropriate.</p> <p>That the policy be amended so that regional plan rule regimes need to be tailored to each particular outstanding water body and its values, rather than blanket rules applying to them all.</p>	<p>That Policy C2 be amended as follows:</p> <p><u>Decision Making Criteria – Outstanding Water Bodies in the coastal environment</u></p> <p>1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change¹¹ is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:</p> <ul style="list-style-type: none"> a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody c. whether, in order to protect the waterbody’s outstanding values and significant values: <ul style="list-style-type: none"> i. the location of the proposed activity is appropriate ii. time limits, including seasonal or other limits on the activity may be appropriate. d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference. e. <u>When protecting outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25, adverse effects must be avoided pursuant to Policy 11(a) of the New Zealand Coastal Policy Statement 2010.</u> f. <u>When protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified</u> 	<p>(1) Federated Farmers’ preference in the first instance is that:</p> <ul style="list-style-type: none"> (i) the objectives and policies in PC7 as notified, which relate to the coastal environment, be deleted. This is because the <i>coastal environment</i> boundary is unmapped and otherwise difficult to interpret objectively within the RPS, RRMP and RCP framework. (ii) Otherwise, Federated Farmers support the intent behind the reporting officer’s wording for protecting significant indigenous biological diversity values, and protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body in an OWB, but consider that this is problematic to achieve in PC7, given the uncertainty around the boundary of the coastal environment presently constituted under the RPS, RRMP and RCP framework.

		<p><u>in Schedule 25, adverse effects must be avoided pursuant to Policies 13(a) and 15(a) of the New Zealand Coastal Policy Statement 2010.</u></p> <ol style="list-style-type: none"> 2. Policy C2.1 only applies to the following activities: <ol style="list-style-type: none"> a. a take, use, damming, or diversion of water from an outstanding waterbody b. a change to any existing take, use, damming or diversion of water from an outstanding waterbody c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody e. a land use consent for any new structure in the bed of an outstanding waterbody f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent 3. Policy C2.1 only applies in the following circumstances: <ol style="list-style-type: none"> a. where a description of the outstanding waterbody's outstanding value(s) is stated in Schedule 25 and/or b. where a description of the outstanding waterbody's significant value(s) is stated in Schedule 25. <p>Principal reasons and explanation</p> <p>3.2.15 Policies C1 and C2 are the only two policies relating to the coastal environment part of this Plan. However, many of the other provisions within the Regional Policy Statement parts of this Plan apply within the coastal environment. Specific regional plan provisions (including policies) for the coastal environment are contained within the Regional Coastal Environment Plan.</p> <p>...</p> <p>3.2.18B Policy C2 aligns with Policy LW3A of the RRMP albeit applicable to decision making for activities affecting outstanding water bodies located in the coastal environment. Both policies provide guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain</p>	<p>(2) In the second instance, and without prejudice to the relief sought above, Federated Farmers seek that:</p> <ol style="list-style-type: none"> (i) the way in which protection of outstanding water bodies gets achieved in the remainder of Policy C2 be via <i>avoidance, remediation or mitigation</i> of adverse effects, depending on the particular values and depending on the particular circumstances, as appropriate. (ii) the policy be amended so that regional plan rule regimes need to be tailored to each particular outstanding water body and its values, rather than blanket rules applying to them all.
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		<p>times of the year. Those types of factors can be considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected in a manner consistent with Policy C2. Policy C2 takes effect after new provisions have been included in the Hawke's Bay Regional Coastal Environment Plan giving effect to the New Zealand Coastal Policy Statement.</p> <p><u>3.2.18C The New Zealand Coastal Policy Statement 2010 contains specific direction with respect to significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values. These are some of the many significant values which can be associated with water bodies in the coastal environment. In some instances, Policies 11, 13 and 15 of NZCPS contain direction which is more stringent than that set out in the NPSFM. In those cases, Policies C1 and C2 reflect the direction set out in the NZCPS</u></p> <p><u>11 A catchment-based plan change which provides for any identified OWB</u></p>	
General submission point on Outstanding vs Significant values	That the terms 'outstanding values' and 'significant values' be defined to have distinct meanings which are then used consistently throughout the RRMP.	There have been no definitions added for 'outstanding values' or 'significant values'.	
General submission point on RMA Section 14(3)(b) takes	<p>That takes for domestic and stock drinking needs and fire fighting supplies continue to be allowed in areas subject to outstanding water body classification and restrictions.</p> <p>That any water allocation regime for an outstanding water body shall ensure enough water is allocated to allow RMA Section 14(3)(b) takes, even at times of low-flow, so there is enough water for domestic use, livestock drinking, and fire-fighting.</p>	<p>(a) That Change 7 not be amended as a result of submissions that are not "on" Change 7 and therefore outside of the scope of Change 7.</p> <p>(b) That Change 7 not be amended to included provisions relating to s14.3(b) of the RMA.</p> <p>(c) That the Hearing Panel allow, allow in part, or reject the submissions and the further submissions on Change 7 set out in Appendix 2 Report 8.0 for reasons including those set out below.</p>	Clause 1.3(5) of the NPSFM 2020, sets out a hierarchy of obligations in Te Mana o te Wai, which includes: as a second tier priority - the health needs of people such as drinking water; and as a third tier priority - the ability of people and communities to provide for their social, economic and cultural well-being. These priorities encompass aspects of RMA Section 14(3)(b) uses of water (despite the reporting officer's assertion that s14(3)(b) takes won't be affected by PC7).

			<p>Therefore, it would be useful to understand how the NPSFM priorities are to be applied through the RPS objective and policy framework in relation to the protection of outstanding and significant values of OWBs. If there is no guidance, there will be a high degree of uncertainty around how Section 14(3)(b) takes are to be regarded where the values of OWBs are concerned, especially given that there are some quite large OWBs in Schedule 25, e.g. the Heretaunga and Ruataniwha Aquifers, which affect hundreds of water resource users and that PC7 envisages augmenting OWB assessments on a case-by-case basis with resource consent applications.</p>												
<p>Schedule 25 Part 1</p>	<p>That the values be more specific in order to lift the threshold for 'outstandingness'. The current proposed criteria are too broad, with 38 water bodies identified as outstanding, several of which cover large geospatial areas (like the Heretaunga Aquifer) and affect hundreds of landowners, including farmers who rely directly on the ability to take and use water.</p>	<p>That Schedule 25 Part 1 be amended as follows:</p> <p>Outstanding values and sub-values</p> <p>The following values have been identified as outstanding for the purposes of giving effect to the outstanding freshwater bodies provisions set out in the National Policy Statement for Freshwater Management. The key sub-values listed help describe the outstanding value, but are not all inclusive.</p> <p>Table 1: Outstanding values and sub-values</p> <table border="1" data-bbox="835 965 1559 1390"> <thead> <tr> <th>Outstanding values</th> <th>Descriptions</th> <th>sub values</th> </tr> </thead> <tbody> <tr> <td>Cultural and spiritual</td> <td>A water body which has outstanding cultural and spiritual values.</td> <td>Wāhi tapu, wāhi taonga; wai Tapu; rohe boundary; battle sites; pa, kāinga; tauranga waka; mahinga kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki, or waiata.</td> </tr> <tr> <td>Ecology</td> <td>A water body which has outstanding ecological value as a habitat for: - native aquatic birds - native fish - salmonid fish - aquatic species.</td> <td>Native birds, native fish, native plants, aquatic macroinvertebrates</td> </tr> <tr> <td>Landscape</td> <td>A water body which forms a key component of landscape that is</td> <td>Scenic, association, natural characteristics (includes</td> </tr> </tbody> </table>	Outstanding values	Descriptions	sub values	Cultural and spiritual	A water body which has outstanding cultural and spiritual values.	Wāhi tapu, wāhi taonga; wai Tapu; rohe boundary; battle sites; pa, kāinga; tauranga waka; mahinga kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki, or waiata.	Ecology	A water body which has outstanding ecological value as a habitat for: - native aquatic birds - native fish - salmonid fish - aquatic species.	Native birds, native fish, native plants, aquatic macroinvertebrates	Landscape	A water body which forms a key component of landscape that is	Scenic, association, natural characteristics (includes	<p>Federated Farmers seek that the values be more specific in order to lift the threshold for 'outstandingness'. The current proposed criteria are too broad. Several of the identified OWBs cover large geospatial areas (like the Heretaunga Aquifer) and affect hundreds of landowners, including farmers who rely directly on the ability to take and use water. Including such water bodies as 'outstanding' will result in inappropriate restrictions being brought to bear on many waterbodies that do not deserve the 'outstanding' epithet. To do this may end up with needless assessments of effects on waterbodies for little or no environmental benefit.</p>
Outstanding values	Descriptions	sub values													
Cultural and spiritual	A water body which has outstanding cultural and spiritual values.	Wāhi tapu, wāhi taonga; wai Tapu; rohe boundary; battle sites; pa, kāinga; tauranga waka; mahinga kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki, or waiata.													
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		<table border="1"> <tr> <td data-bbox="837 193 981 293"></td> <td data-bbox="981 193 1301 293">"conspicuous, eminent, remarkable or iconic" within the context of the area concerned, or is critical to an outstanding geological feature.</td> <td data-bbox="1301 193 1561 293">hydrological, ecological and geological features)</td> </tr> <tr> <td data-bbox="837 293 981 467">Natural character</td> <td data-bbox="981 293 1301 467">A water body, with high naturalness, exhibiting an exceptional combination of natural processes, natural patterns, and natural elements, with low levels of modifications to the river, its ecosystems and the surrounding landscape.</td> <td data-bbox="1301 293 1561 467">Natural characteristics (includes hydrological, ecological and geological features)</td> </tr> <tr> <td data-bbox="837 467 981 592">Recreation</td> <td data-bbox="981 467 1301 592">A water body which provides an outstanding recreational experience for an activity which is directly related to the water such as fishing, kayaking, rafting and jet boating.</td> <td data-bbox="1301 467 1561 592">Angling, fishing, kayaking, rafting, jet boating</td> </tr> <tr> <td data-bbox="837 592 981 716">Geology</td> <td data-bbox="981 592 1301 716">A water body which has an outstanding geomorphological, geological or hydrological feature which is dependent on the water body's condition and functioning.</td> <td data-bbox="1301 592 1561 716">Science</td> </tr> </table> <p data-bbox="837 743 1561 868">To be identified as 'outstanding', the water body must feature at least one outstanding value. The water body may also feature other significant values which must be protected to give effect to the NPSFM. Information held by HBRC on the outstanding and significant values of 'outstanding water bodies' is available on the HBRC website, www.hbrc.govt.nz under #OWB.</p> <p data-bbox="837 895 1561 948">And that Schedule 25 Part 1 remains otherwise unchanged from the notified version</p>		"conspicuous, eminent, remarkable or iconic" within the context of the area concerned, or is critical to an outstanding geological feature.	hydrological, ecological and geological features)	Natural character	A water body, with high naturalness, exhibiting an exceptional combination of natural processes, natural patterns, and natural elements, with low levels of modifications to the river, its ecosystems and the surrounding landscape.	Natural characteristics (includes hydrological, ecological and geological features)	Recreation	A water body which provides an outstanding recreational experience for an activity which is directly related to the water such as fishing, kayaking, rafting and jet boating.	Angling, fishing, kayaking, rafting, jet boating	Geology	A water body which has an outstanding geomorphological, geological or hydrological feature which is dependent on the water body's condition and functioning.	Science	
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<p data-bbox="190 975 385 1117">Schedule 25 Part 2 - What is an OWB? (Screening Framework)</p>	<p data-bbox="385 975 824 1086">That Outstanding Water Bodies be only those water bodies which are pristine or with a low level of human use.</p> <p data-bbox="385 1118 824 1390">That if water bodies that have high human land and water use are found to be outstanding, then additional criteria for human uses be included as a potential outstanding or significant value, to allow land and water use for farming to be provided for within the policy framework and any subsequent rule regime for that water body. In such cases, deference to a single</p>	<p data-bbox="824 975 1574 1034">That a new OWB identification screening framework be included in PC7 as follows:</p> <p data-bbox="824 1062 1574 1342">Part 2 – Outstanding Water Body Screening Framework <u>The following screening framework applies to the identification of water bodies and/or estuaries, or parts thereof, in Hawke's Bay, that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s) that are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.</u> <u>The Outstanding Water Body Screening Framework can also be used in catchment based planning to assist with the identification of outstanding water bodies.</u></p> <p data-bbox="824 1366 1574 1390">Table 1A: Outstanding water body identification screening framework</p>	<p data-bbox="1574 975 2045 1310">Identification of other outstanding (and significant) values appear somewhat arbitrary in PC7. The wide range of documents that inform OWB value identification have not been adequately cross-referenced into PC7's objective and policy framework. The notified version of PC7 has scant description of 'outstanding values' in Part 1 of Schedule 25 and nothing in the proposed objectives and policies informing plan users how outstanding values were identified.</p> <p data-bbox="1574 1342 2045 1390">Federated Farmers support the concept of a screening framework, which is more</p>												

criterion for 'outstandingness' may unfairly prejudice against many peoples' livelihoods and economic well-being, and if that is the case, we would prefer there to have to be more than a single outstanding value criterion in order to trigger restrictions on human land and water use.

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following ¹²
Ecology	<u>Habitat for aquatic birds (native and migratory)</u> <u>Water body should be further investigated as providing an outstanding habitat for aquatic birds where it meets:</u> <ul style="list-style-type: none"> at least one matter in List A and all matters in List B. <u>List A</u> <ol style="list-style-type: none"> One of the highest regional populations of a native aquatic bird species which is endangered, threatened or distinctive¹³. One of the highest natural diversity of aquatic birds (native and migratory) in the region, which includes endangered or threatened species. <u>List B</u> <ol style="list-style-type: none"> Evidence is provided in support of outstanding features. 	<u>International Union for Conservation of Nature (IUCN) criteria.</u> <u>RAMSAR site criteria reports.</u> <u>New Zealand threat classification system.</u> <u>IUCN red list.</u> <u>Expert evidence.</u>
	<u>Native fish habitat</u> <u>Water body should be further investigated as providing an outstanding habitat for native fish where it meets:</u> <ul style="list-style-type: none"> at least one matter in List A and all matters in List B. <u>List A</u> <ol style="list-style-type: none"> A unique species or distinctive assemblage of native fish not found anywhere else in the region. Native fish that are landlocked and not affected by presence of introduced species. One of the highest diversity of native fish species in the region, which includes a threatened, endangered or distinctive species. An outstanding customary fishery. <u>List B</u> <ol style="list-style-type: none"> Evidence is provided in support of outstanding native fish habitat value. 	<u>Waters of National Importance.</u> <u>Expert evidence.</u>

specific than any previous information in Plan Change 7.

However, Federated Farmers submit that

- human use such as water resource for primary production and farming, should be included alongside other human-centric values such as recreation, landscape enjoyment and spiritual and cultural (tangata whenua) values, and that these be able to be considered and recognised as outstanding values where appropriate.
- The overarching criterion for each type of value listed in the table is prefaced by the phrase "Water body should be further investigated as providing an outstanding habitat ...". This is a preliminary step in a planning-issues discovery process, rather than being a substantial and complete screening framework. There are no subsequent steps to guide the assessment of potential OWBs.
- Virtually all the lists of matters to be satisfied include criteria requiring exercise of judgement, which leave a lot to the imagination and are not transparent. For example, "one of the highest... (of this or that feature)", "high diversity of habitats", "high numbers of trout", "a regional, national, or international reputation", "an essential component of the landscape", "wild and or scenic", "international and or national reputation and or high non-local usage". This has potential to result in all sort of inequities in assessment.

			<p>Habitat for indigenous plant communities</p> <p><u>Water body should be further investigated as providing an outstanding habitat for an indigenous plant community where it meets:</u></p> <ul style="list-style-type: none"> at least one matter in List A and all matters in List B. <p>List A</p> <p>a) <u>The indigenous plant community has a high diversity of habitats, or rare and threatened plant species in the region.</u></p> <p>b) <u>The indigenous plant community contains special features not found anywhere else in the region.</u></p> <p>List B</p> <p>a) <u>The indigenous plant community is reliant on the river flows, other aquatic characteristics, or is an integral part of the water body.</u></p> <p>b) <u>Evidence is provided in support of outstanding features.</u></p>	<p>New Zealand Geopreservation Inventory. Protected Natural Area (PNA) surveys. Expert evidence.</p>	<p>4) There is no guidance on the type of evaluation required to assess values and determine management frameworks (e.g.: environmental impact analysis, multi-criteria analysis, goals/achievement matrix analysis, planning balance sheet analysis, or cost/benefit analysis).</p> <p>5) A range of possible management tools or varying levels of intervention may be appropriate for protecting each value (e.g.: information/education, targeted grants for preservation actions such as fencing, protection covenants, plan rules, regulations, or public property acquisition and reservation). However, none of this is addressed, and the presumption would be that everything which passed the screening would automatically be protected in a plan rule framework, with potential for all sorts of inefficiencies.</p> <p>6) The recommended screening framework leaves a lot up to the imagination and interpretation of those persons implementing the RRMP as to how it will be used. This is likely to result in patchy and inconsistent environmental outcomes, with many things falling between the cracks in large catchments containing big water bodies.</p> <p>7) Given that it is intended to be used in catchment-based planning to assist in identification of outstanding water bodies that require protection under the NPSFM, it is not a suitable foundation for regulatory restrictions.</p>
			<p>Habitat for trout and salmon</p> <p><u>Water body should be further investigated as providing an outstanding habitat for trout and salmon where it meets all matters in List A.</u></p> <p>List A</p> <p>a) <u>Has an outstanding angling amenity, or is critical to maintaining an outstanding angling amenity elsewhere in the catchment.</u></p> <p>b) <u>Supports a self-sustaining population of wild trout or salmon (i.e. fish population not periodically restocked from hatcheries).</u></p> <p>c) <u>Evidence is provided in support of outstanding features.</u></p>	<p>Waters of National Importance. Headwater trout fisheries (NIWA). Expert evidence.</p>	
		<p>Cultural and spiritual (tangata whenua)</p>	<p>Cultural and spiritual (tangata whenua)</p> <p><u>Water body should be further investigated as being outstanding for cultural and spiritual values where it meets all matters in List A.</u></p> <p>List A</p>	<p>Waitangi Tribunal Reports. Statutory acknowledgements. Statements provided from Iwi members.</p>	

			<p>a) <u>The features are of significance to Māori on a region wide basis</u></p> <p>b) <u>The features are acknowledged as outstanding, by the descendant groups most closely associated with the waterbody.</u></p> <p>c) <u>Evidence is provided in support of outstanding features.</u></p>	<p><u>Expert evidence.</u> <u>Deeds of settlements.</u> <u>Statutory acknowledgements.</u> <u>Customary uses reports.</u> <u>Court cases.</u></p>	<p>8) The suggested screening framework does not unpick the confusion between <i>outstanding characteristics</i> and <i>significant values</i> of OWBs inherent in PC7. The NPSFM requires protection of <i>significant values</i> of OWBs, but makes no mention of 'outstanding values' as such. Federated Farmers submit that amongst other matters requiring attention mentioned above, the recommended screening framework needs to get the nomenclature clear and that it should reflect the terminology used in the NPSFM. This is likely to require some considerable attention, and it may be appropriate to include this in a repackaged proposed plan change for OWBs that is notified by way of a variation.</p>
<p>Recreation</p>	<p><u>Angling amenity (trout and salmon)</u></p> <p><u>Water body should be further investigated as providing an outstanding recreational fishing experience (angling amenity) where it meets:</u></p> <ul style="list-style-type: none"> • <u>at least one matter in List A and</u> • <u>at least one matter in List B and</u> • <u>all matters in List C.</u> <p><u>List A</u></p> <p>a) <u>Trophy trout (over 4 kg in size).</u></p> <p>b) <u>High numbers of large trout (water body supports the highest number of large trout in the region).</u></p> <p>c) <u>High numbers of trout (water body supports the highest trout numbers in the region or the highest trout biomass in the region).</u></p> <p><u>List B</u></p> <p>a) <u>Variety of high quality angling experiences.</u></p> <p>b) <u>Specialised high quality angling experience (scenic, solitude, challenging, high catch rate, ability to spot and fish to a particular trout).</u></p> <p><u>List C</u></p> <p>a) <u>Wild trout fishery (self-sustaining trout population through natural replacement).</u></p> <p>b) <u>Water body is accessible and suitable to fish (high water quality and suitable flows).</u></p> <p>c) <u>A regional, national or international reputation as an exceptional trout fishery or high non-local usage (high numbers of anglers come from outside of the area).</u></p>	<p><u>National Angling Survey.</u> <u>Headwater trout fisheries (NIWA).</u> <u>Testimonies from anglers.</u> <u>National Inventory of Wild and Scenic River.</u> <u>Expert evidence.</u></p>			

			<p>d) Evidence is provided in support of outstanding recreational experience.</p>			
			<p>Rafting</p>			
			<p>Water body should be further investigated as providing an outstanding rafting experience (amenity) where it meets:</p> <ul style="list-style-type: none"> • at least one matter in List A and • all matters in List B. <p>List A</p> <p>a) Variety of high quality rafting experiences found in few other water bodies in the region.</p> <p>b) A specialised high quality rafting experience found in few other water bodies in the region.</p> <p>List B</p> <p>a) The water body provides an outstanding rafting experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</p> <p>b) Regional, national or international significance as an exceptional rafting experience.</p> <p>c) High non-local usage (high numbers of participants come from outside of the area).</p> <p>d) Evidence is provided in support of an outstanding rafting experience.</p>	<p>1991 River Use Survey, New Zealand Recreational River Survey, Testimonies from rafters and their local or national associations, Expert evidence.</p>		
			<p>Kayaking (includes canoeing)</p>			
			<p>Water body should be further investigated as providing an outstanding kayaking experience (amenity) where it meets:</p> <ul style="list-style-type: none"> • at least one matter in List A and • all matters in List B. <p>List A</p> <p>a) Variety of high quality kayaking experiences found in few other water bodies in the region.</p> <p>b) A specialised high quality kayaking experience found in few other water bodies in the region.</p>	<p>1991 River Use Survey, New Zealand Recreational River Survey, New Zealand Whitewater: 120 Great Kayaking Runs, Testimonies from kayakers and their local or national associations, Expert evidence.</p>		

			<p><u>List B</u></p> <p>a) <u>The water body provides an outstanding kayaking experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</u></p> <p>b) <u>Regional, national or international significance as an exceptional kayaking experience.</u></p> <p>c) <u>High non-local usage (high numbers of participants come from outside of the area).</u></p> <p>d) <u>Evidence is provided in support of an outstanding kayaking experience.</u></p>		
			<p><u>Jet boating</u></p> <p><u>Water body should be further investigated as providing an outstanding jet boating experience (amenity) where it meets:</u></p> <ul style="list-style-type: none"> • <u>at least one matter in List A and</u> • <u>all matters in List B.</u> <p><u>List A</u></p> <p>a) <u>Variety of high quality jet boating experiences found in few other water bodies in the region.</u></p> <p>b) <u>A specialised high quality jet boating experience found in few other water bodies in the region.</u></p> <p><u>List B</u></p> <p>a) <u>The water body provides an outstanding jet boating experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on high flows or subject to low flows).</u></p> <p>b) <u>Regional, national or international significance as an exceptional jet boating experience.</u></p> <p>c) <u>High non-local usage (high numbers of participants come from outside of the area).</u></p> <p>d) <u>Evidence is provided in support of an outstanding jet boating experience.</u></p>		

		<p>Landscape</p>	<p>Wild and scenic</p> <p>Water body should be further investigated as having outstanding wild and or scenic values where it meets all matters in List A.</p> <p>List A</p> <p>a) Waters are an essential component of the landscape.</p> <p>b) Waters have wild and or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</p> <p>c) Evidence is provided in support of outstanding wild or scenic values by way or an expert assessment or independent evidence sources.</p>	<p>A National Inventory of Wild and Scenic Rivers. A list of rivers and lakes deserving protection in a schedule of protected waters.</p> <p>64 New Zealand Rivers: a scenic evaluation.</p> <p>New Zealand Recreational Survey and the National Inventory of Wild and Scenic Rivers.</p> <p>Expert evidence.</p>	
		<p>Karst system /Subterranean waters</p>	<p>Karst system / subterranean waters</p> <p>A karst system and/or subterranean waters should be further investigated as having outstanding values where the following is met:</p> <ul style="list-style-type: none"> • at least one matter in List A and • all matters in List B. <p>List A</p> <p>(a) A specialised high quality experience present in few other water bodies in the region.</p> <p>(b) Wild and or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</p> <p>(c) Unique or unusual scientific or ecological values present in few other water bodies in the region.</p> <p>List B</p> <p>(a) International or national reputation and or high non-local usage.</p> <p>(b) Evidence is provided in support of outstanding values.</p>	<p>New Zealand Geopreservation Inventory.</p> <p>Expert evidence.</p>	
		<p>Natural Character</p>	<p>Natural Character</p> <p>Water body should be further investigated as having outstanding natural character values where it meets all matters in List A.</p> <p>List A</p>	<p>Expert evidence.</p>	

			<p>(a) <u>the water body is highly natural with little or no human modification, including to the flow, bed and riparian margins, water quality, flora and fauna, within a largely indigenous landscape.</u></p> <p>(b) <u>The natural character values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.</u></p> <p>(c) <u>Evidence is provided in support of outstanding natural character values by way of an expert assessment or independent evidence sources.</u></p>		
		<p>Geology</p>	<p><u>Geology</u></p> <p><u>Water body should be further investigated as having outstanding geology values where it meets all matters in List A.</u></p> <p>List A</p> <p>(a) <u>The geomorphological, geological or hydrological feature is dependent on the water body's condition and functioning.</u></p> <p>(b) <u>The geology values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.</u></p> <p>(c) <u>Evidence is provided in support of outstanding geology values by way of an expert assessment or independent evidence sources.</u></p>	<p><u>New Zealand Geopreservation Inventory.</u></p> <p><u>Expert evidence.</u></p>	

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of the hearing of submissions on
Proposed Plan Change 7 – Outstanding Water Bodies
to the Hawkes Bay Regional Resource Management
Plan

BY FEDERATED FARMERS OF NEW ZEALAND

TO Hawkes Bay Regional Council

Statement of Evidence

**Rhea Dasent
On behalf of Federated Farmers**

13 November 2020

INTRODUCTION

1. This Statement of Evidence is for Plan Change 7 (Outstanding Waterbodies) ('PC7') to the Hawkes Bay Regional Resource Management Plan.
2. My name is Rhea Jane Dasent and I am a senior regional policy advisor for Federated Farmers of New Zealand. I am authorised to speak on behalf of Federated Farmers.
3. I have experience in resource management issues to do with farming, having worked for Federated Farmers as a regional policy advisor since 2009. My role is to provide policy advice and advocacy on behalf of Federated Farmers members in processes arising under the Resource Management Act, Local Government Act and Local Government (Rating) Act. I analyse, submit, present at hearings and conduct Environment Court appeals on behalf of members. My work is informed and mandated by our elected representatives and local members. I hold a Bachelor of Science Degree and a Bachelor of Arts Degree from Victoria University of Wellington, and I have previous experience as a resource consent officer working for local government. My professional views are closely aligned with those of Federated Farmers, due to my farming background.
4. My family have farmed our property on Dasent Road in Hawkes Bay over 100 years. I have practical farming experience, having grown up on this farm, and being involved in the running of it myself.
5. Federated Farmers is a voluntary membership-based organisation that represents farmers and other rural businesses. Federated Farmers has a long and proud history of representing the needs and interests of New Zealand's farmers and as such has a keen interest in PC7.
6. Federated Farmers made a submission and further submissions on PC7. These submissions are representative of member's views and experiences with the management of the resources in the Region and reflect the fact that the proposed Plan Change will have a significant impact on our member's daily lives as farmers, members of the local community, and as land and water users.
7. I wish to acknowledge and support submissions made by individual members of Federated Farmers.

OVERALL POSITION

8. Federated Farmers submitted with two ideas to improve PC7:
Plan A: the criteria are stricter and the threshold is higher, so only pristine waterbodies with a low level of human use are found to be outstanding; or
Plan B: if waterbodies that have high human land and water use are found to be outstanding, then additional criteria for human uses are included as a

potential outstanding or significant value. This means land and water use for farming will be provided for in the outstanding waterbody regime as being existing and necessary.

9. Federated Farmers preference is for Plan A: that the criteria are more specific and only pristine waterbodies with low human use are classified as outstanding, such as Lakes Rotoroa and Rototuna in the Kaweka Forest Park.

FARMING AS A VALUE

10. Federated Farmers submitted that land and water use for farming be considered as a value of outstanding waterbodies. The reason for this was because many of the outstanding waterbodies have been identified alongside well-established farming land use. This existing farming is an activity that is important not only to the farmers themselves but also to their communities, so it should be recognised as existing in harmony with and contributing to the associated values.
11. The Section 42a Report addresses this on page 13, paragraph 68 onwards. Paragraph 70 says *“The proposed 2008 NPSFM clearly did not provide for the recognition of economic and consumptive use values under its outstanding freshwater provisions”* and paragraph 72 says *“the CEF OFWB project... concluded that the NPSFM never intended for economic and consumptive use values to be classed as outstanding...”*
12. Paragraph 71 says *“...all versions of the NPSFM have recognised OWB as a limited class of water bodies which warrant special protection...”* Federated Farmers considers that the problem with PC7 is that the proposed OWB are not a limited class as the NPSFM intended. The criteria are much broader than the NPSFM and have inappropriately captured waterbodies that have high levels of human use, including farming.
13. If primary production is not recognised as a value, Federated Farmers is concerned that the regulatory consequences of an OWB waterbody will have a major impact on farming. It may require many common farming activities to gain consent. We fear these consents will be declined because the identified outstanding values will have priority over the farming and economic/consumptive values, rather than being a balancing exercise. Federated Farmers members find it difficult to understand that other human use values such as recreation are recognised, yet farming is not.

REGULATORY IMPACT ON FARMING

14. Federated Farmers main concern is that there will be a regulatory impact on farming from PC7, and that this has not been properly assessed.
15. Some of the waterbodies classified as outstanding are vast, such as all five major Hawkes Bay rivers, the Heretaunga Aquifer and the Ruataniwha Aquifer. If the intention is to regulate land uses and water takes and uses in

the entire catchment area of these large waterbodies, there will be a regulatory impact on hundreds of hectares of farms.

16. Although Appendix 9 of the Section 42a Report provides a map of the proposed Outstanding Waterbodies, it is still uncertain whether the objectives and policies apply to the catchment areas of each of the waterbodies, or only to the defined river channels, lakes, or wetlands. There is a real question over the extent of the two aquifers and whether provisions apply to the land above, both of which are well-established primary production which the whole region relies on.
17. The policies say that a huge range of activities could be discretionary or non-complying when occurring in an outstanding waterbody (any new or changed take, use, damming or diversion of water; any new or changed discharge into water; any new or changed discharge to land; any new structures on the bed; and new or changed disturbance to the bed;) many farming activities will fall into these consent categories.
18. Farming activities that could face regulatory impact include: water takes and uses for stock drinking and domestic supply; water for irrigation; diffuse discharges from land use; soil disturbance from planting and harvesting; vegetation clearance; and earthmoving.
19. Other use values could also be impacted by OWB classification, such as the hydro-electric power stations on the Waikaretakeke River, and municipal takes.

SECTION 14.3(B) TAKES AND USES

20. Federated Farmers submitted that Section 14.3(b) water takes and uses should be provided for as “allowed” in outstanding waterbodies. We submitted that takes and uses for domestic and stock drinking needs under Section 14.3(b) should be accounted for any catchment water take allocation, and not affected by low flow limits or have to face restrictions or cessations.
21. I cannot overstate the importance of Section 14.3(b) takes and uses for farmers. It is vital and must continue to be enabled. It would be totally unacceptable to restrict farmers’ ability to provide drinking water for their livestock, and for their households. I understand that this right is not unfettered, but is bound by the condition that it does not, or is not likely to, have an adverse effect on the environment. I agree with this condition in the RMA, and consider that there is no need for further regulations by the Regional Plan.
22. This RMA provision applies regardless of the status of a waterbody, or whether or not it is outstanding. Federated Farmers do not want this right to be compromised by PC7. This is particularly important because the large number and big spatial extent of the proposed 38 waterbodies will affect many thousands of farmers.

23. The Regional Resource Management Plan already gives S.14.3(b) takes allowed status, see footnote 8 in Table 2A of the Plan Change. We submit that the same allowed status remains for outstanding waterbodies, and such water takes and uses are not classified as over-allocation.
24. Reflecting this topic's importance, Federated Farmers made multiple submission points to PC7:
- *Federated Farmers submits that Section 14.3(b) takes and uses continue to have allowed status in outstanding waterbodies, and are not regulated by the Regional Resource Management Plan further.*
 - *Federated Farmers submits that any water allocation regime for an outstanding waterbody ensures enough water is allocated to Section 14.3(b) takes and uses, and even at times of low flow there is enough water for stock to drink.*
 - *That Objective OBJ LW1 provides enough water for Section 14.3(b) takes and uses in outstanding waterbodies.*
 - *Federated Farmers submits that where Pol LW1.1dA) discusses water quantity, enough water for Section 14.3(b) takes and uses are provided for in outstanding waterbodies, and that new water takes for other uses are provided for.*
 - *Federated Farmers submits that activities that have less than minor effects do not need regional plan provisions, such as Section 14.3(b) takes and uses.*
 - *Federated Farmers submits that Section 14.3(b) takes and uses are incorporated into Policy LW2 as having "allowed" status when prioritising values.*
25. The Section 42a Report recommends to reject these submission points, discussing the topic in Paragraphs 1668-1672 saying that *"Change 7 as notified made no specific provision for s14.3(b) of the RMA or amendments to existing provisions in the RRMP. In this way, the existing and higher order planning provisions still stand."*
26. While it is good that the existing allowed status will remain, Federated Farmers seeks to cement this into PC7 so that all readers are aware, and to inform future provisions or plan changes relating to Outstanding Waterbodies. Silence on such an important topic can be interpreted either way, so it is better to rule it out in a clear manner. In my discussion above on economic and consumptive uses, much surmising can take place as to what the NPSFM intended when it was silent on the topic. Intentions should be clear, by writing them into the Plan Change rather than relying on interpretations of gaps.

27. Federated Farmers original submission sought changes in objectives and policies to recognise the allowed RMA status of Section 14.3(b) takes. Including text in the explanation section, or an advice note, could be acceptable alternatives.

CONSULTATION

28. Federated Farmers submitted that direct consultation needs to occur with the landowners who have a proposed outstanding waterbody on their property. Some of these landowners will be the Crown, but many will be private citizens, such as farmers.
29. Federated Farmers submitted that because many of the waterbodies are small or have a well-defined extent, like lakes, springs, swamps and wetlands, contacting the directly affected landowners should be an achievable task. The Council already has a database of ratepayers so should be able to identify and contact these landowners. Landowners likely already know that the waterbody is special, but deserve to know how it meets criteria and the regulatory implications. This should be an opportunity for relationship building and partnership.
30. The large waterbodies that cover many square kilometres of urban and primary production land, such as aquifers and the five main river catchments of Hawke’s Bay (Wairoa River, Mohaka River, Tutaekuri River, Ngaruroro River and Tukituki River) present a challenge, as much of the Hawke’s Bay population will be affected by one or another. This demonstrates the need for the outstanding threshold to be high, in order to avoid needlessly capturing inappropriate reaches of waterbodies and minimise unnecessary regulatory impact.
31. I have identified some affected landowners (using Federated Farmers’ database). I focussed on some smaller, well-defined waterbodies such as lakes, wetlands, and smaller rivers that we knew had farming nearby. Federated Farmers database is limited to farming properties only, so there would possibly be more non-farming landowners affected. I identified about 57 landowners who either had the waterbody on their property or shared a boundary with it. This is not an exhaustive list of all the OWB that have farming nearby.

Outstanding Waterbody in PC7	Number of farming landowners adjacent
Lake Tutira	1
Whakaki Lake – Te Paeroa Lagoon-Wairau Lagoon and wetlands	4
Lake Whatuma	1

Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune wetlands	5
Ngamatea East Swamp	1
Opoutama Swamp	3
Porangahau River and Estuary	34
Putere Lakes	4
Taruarau River	3

32. I do not consider it an unreasonable expectation for the Regional Council to identify and consult directly with landowners for a plan change of this type. Consultation would be an opportunity for the Council to learn more about the waterbody and to start a positive relationship with landowners.

ALTERNATIVES

33. Federated Farmers submitted that non-regulatory methods should have equal status with regulatory methods.
34. Federated Farmers aims to avoid regulatory duplication. In my experience, duplication leads to inefficiency and confusion in having to check with multiple regulatory bodies and their rules; especially where potential contradictions arise between rules. If resource consent requirements are triggered, the spectre of one regulatory body saying yes and the other saying no is confusing and frustrating. It is not efficient planning to have multiple regulations that achieve the same purpose.
35. In some cases, it appears that alternatives to regulation in the RRMP for individual outstanding waterbodies have not been explored enough, and that the Council has defaulted to regional plan provisions as the main method of managing outstanding water bodies. The objectives and policies need to provide for alternatives to regulation once a waterbody has been classified as outstanding, to provide 'wrap-around' protection mechanisms, and make it clear that rules in the RRMP are not the first and only tool. Also, given the large area of some identified outstanding water bodies, and the wide range of possible values of these, avoidance of effects may not always be appropriate response. It may in fact not be possible to always avoid adverse effects, and so the ability remedy or mitigate adverse effects needs to be incorporated in the policy.
36. Policy LW1.2 (iA) (ii) does mention non-regulatory methods. I suggest the following amendments in red to ensure non-regulatory have equal status with regulatory methods and viewed as a viable alternative:
- ii) *establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by either regulatory methods or non-regulatory methods or both;*

iii) *where regulatory methods are appropriate, include regional plan provisions to manage activities in a manner which avoids, remedies or mitigates adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.*

37. Alternative mechanisms include: QEII covenants; any existing Water Conservation Orders; Significant Conservation Areas, Wildlife Management Reserves; Kawenta and existing Acts of Parliament.
38. As an example, the Mohaka River already has a [Water Conservation Order](#), which was granted in 2004 and protects an outstanding trout fishery, scenic characteristics and amenity for water-based recreation. All of these outstanding values are specific to particular sections of the river. Paragraph 102 of the Section 42a Report tells the reader that this WCO also covers parts of the Hautapu, Ripia and Te Hoe Rivers. Federated Farmers doesn't advocate for more WCOs, but given there is already one here, it does the job.
39. Another example of alternative mechanisms can be found at the Maungawhio Lagoon site, which is gazetted as a [Wildlife Management Reserve](#) which would mean the avian bird values are being managed.
40. Another example is where outstanding waterbodies occur on Maori land and have been classified for meeting the cultural and spiritual criterion. These waterbodies likely already have formal protection under Kawenata, Iwi Management Plans, or Acts like the [Te Urewera Act 2014](#), and the [Hineuru Claims Settlement Act 2016](#). These are all good examples of alternative mechanisms that would protect the cultural and spiritual values held by the tangata whenua, and wouldn't need any RRMP regulations.
41. With farm management plans becoming a requirement under Government legislation and also in Hawkes Bay Regional Council regional plans, there is an opportunity here for the Regional Councils to partner with farmers in a non-regulatory manner. Farms that have a discrete waterbody such as a lake or wetland could be encouraged to include this in their Farm Plan, and address how the identified outstanding value such as bird habitat could be protected.
42. I do not recommend that farms be required to address their farm's impacts on entire river or aquifer catchments where water bodies may have an outstanding value, as any given farm could be kilometres away from the site where the value is present.

LOCATION AND EXTENT

43. The location and extent of the waterbodies needs to be clear and certain. The amount of surrounding land that could be subject to future regulations in order to protect the outstanding values, also needs to be clear and certain.

44. Federated Farmers is pleased that a map of the waterbodies has been provided in Appendix 9 of the Section 42a Report. Identifying the location and extent of each individual OWB is important. The map has the waterbodies indicated in blue, and the catchments indicated in orange. If the entire catchment of a waterbody is to be included in the field of regulation, I am alarmed at how many landowners and farms could potentially be regulated.
45. However, Federated Farmers are opposed to an entire waterbody being classified as outstanding if the outstanding values are only present in some areas. This is particularly an issue for the long rivers, such as the entire Mohaka River being classified even though the outstanding values are found only in the upper reach above Willow Flat. Similarly, the outstanding values of the Ruakituri River appear to be present in the upper reaches above the Waitangi Falls.
46. The Ngaruroro River also has this problem with the entire river being classified as outstanding in PC7, despite plenty of robust and detailed evidence demonstrating that there are only limited outstanding values present and that these occur only in the upper reaches. A great deal of evidence by qualified experts demonstrated that only rainbow trout habitat and fishery; angling amenity and recreation; whitewater kayaking and rafting amenity and recreation; and wild, scenic and natural values, reached the outstanding threshold and were only present above the Whanawhana cableway location. There is a dearth of information on many of the other waterbodies classified as outstanding in PC7, however there is an abundance of evidence for the Ngaruroro River showing precisely what values are outstanding and where.
47. The Section 42a Report addresses this in paragraphs 452 and 453, concluding that *the 2020 NPSFM's definition of 'outstanding water body' now explicitly refers to 'part of a water body'*. And *Reporting officers agree with submitters that Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists*. We agree with the Section 42a Report on this matter.
48. Only the section of the waterbody where the values are outstanding should be classified as an outstanding waterbody.

OWB IDENTIFICATION AND SCREENING PROCESS

49. In order to be a robust process that withstands scrutiny, application of criteria and evidence both need to be vigorous.
50. More than one criterion needs to be met before a waterbody is classified as outstanding. This will ensure that a waterbody will be above the outstanding threshold. Meeting at least two criteria also reduces the risk that a waterbody

will be erroneously classified as outstanding when a single value suffers from lack of evidence.

51. Good quality and detailed evidence is needed to support the outstanding status of the values. This evidence must withstand scrutiny in court. There is very limited information provided as to how some of the waterbodies in Schedule 25 have meet the OWB criteria.
52. The threshold as to what is outstanding needs to be lifted. A screening process that results in a municipal rubbish dump site in the case of Mangahouanga Stream to be classified as an outstanding waterbody, does not provide confidence that the screening is robust.
53. As an example, Opoutama Swamp has a dearth of information or evidence to support its outstanding classification. It is proposed that it meets the cultural and spiritual value criterion, but no evidence is provided to show that it does. In the [Opoutama Swamp Summary of Values Report](#) prepared August 2020 by HBRC staff member Belinda Harper, the information specific to the outstanding values of this swamp consists of three sentences: the first describing the location; the second saying further assessment is needed; and the third is a statement that applies generically to all waterbodies in a catchment.

<p>Cultural and Spiritual values</p> <p>Opoutama Swamp, located at the northern end of Hawke's Bay, is a freshwater swamp beside, but not connected to, Maungawhio Lagoon.</p> <p>The local expert panel found that further cultural assessment was needed for the Opoutama Swamp.</p> <p>Iwi authorities at the Wairoa sub-regional hui recommended that all waterbodies, including all tributaries, in the Kopūwhara catchment have outstanding cultural and spiritual values.</p>

54. While cultural and spiritual values may indeed be present, evidence nevertheless should be provided to demonstrate these meet the 'outstanding' threshold. The evidence provided for the Opoutama Swamp does not meet the standard required.
55. Te Paerahi Stream has a similar scarcity of evidence to demonstrate that it has the proposed outstanding cultural and spiritual values. The Section 42a Report writer admits that no information on cultural and spiritual values was found during phase 1 (paragraph 1411); it is not one of the waterbodies recommended for extra assessment and as such the cultural and spiritual values were not considered during this process (para 1412); and no further information on the cultural and spiritual values has come to light since (para 1413). The lack of evidence on cultural or spiritual values, and whether these are outstanding, must surely mean that this waterbody does not meet the threshold and should not be classified as outstanding.
56. In comparison to the lack of detailed evidence for cultural and spiritual values of the Opoutama Swamp and Te Paerahi Stream, there is good quantity and quality of evidence available for cultural and spiritual values for Lake Waikaremoana. The [Lake Waikaremoana Summary of Values](#) report prepared

by HBRC Belinda Harper in 14 May 2018 summarises a Waitangi Tribunal Report 2009, which has lots of detail and is a robust, tested source of information.

57. Evidence must also be relevant, and up to date. As an example, the evidence provided for the Porongahau River and Estuary is decades old and there is a question whether the ecology is still present or still at the outstanding level. The evidence for wrybill and banded dotterel is a survey from 1992 (paragraph 1174) This information is 28 years old and should not be used as proof the estuary currently meets the aquatic bird habitat criterion. The purpose of outstanding waterbodies is to protect values that are present today, not values from 28 years ago.
58. Similarly, paragraph 1179 discusses the native fish value in a Ministry of Agriculture and Fisheries publication from 1987. This information is 33 years old and should not be relied upon as an accurate assessment of fish values that are present today.

SCHEDULE 25

Outstanding Waterbody in PC7	FFNZ submission 28 Feb 2020	Section 42a Recommendation	FFNZ position 13 Nov 2020				
<p>Heretaunga Aquifer</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Heretaunga Aquifer. <p>We are concerned about the outstanding status of this 510km² aquifer and what this will mean for the existing land and water uses, given that it is a major concentration of human settlement in Hawkes Bay.</p> <p>Paragraph 4 of Appendix 4 acknowledges the importance of the aquifer for domestic, municipal, industrial, horticultural and agricultural use. It appears that Ngāti Kahungunu emphasised the current economic importance (see para 14) so at least this needs to be recognised.</p> <p>We are also unclear how the aquifer met the geological criterion, and is considered outstanding compared to other aquifers.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p>	<p>The Report discusses the Heretaunga Aquifer on page 72.</p> <p>The following amendments are recommended by the reporting officer:</p> <table border="1" data-bbox="1016 580 1599 1002"> <thead> <tr> <th data-bbox="1016 580 1160 632">Outstanding value(s)</th> <th data-bbox="1160 580 1599 632">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 632 1160 1002">Cultural, spiritual, Geology</td> <td data-bbox="1160 632 1599 1002"> <p>The Heretaunga aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Heretaunga Plains.</p> <p>The Heretaunga aquifer system is a taonga of Ngati Kahungunu, who know the aquifer system as the "Heretaunga Ararau Haukūnui", being a large water resource, represented in the many rivers, creeks, the small tributaries fed by underground springs, springs of water, swampy ground, swimming holes, rock pools and quick sands.</p> <p>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, Geology	<p>The Heretaunga aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Heretaunga Plains.</p> <p>The Heretaunga aquifer system is a taonga of Ngati Kahungunu, who know the aquifer system as the "Heretaunga Ararau Haukūnui", being a large water resource, represented in the many rivers, creeks, the small tributaries fed by underground springs, springs of water, swampy ground, swimming holes, rock pools and quick sands.</p> <p>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.**</p>	<p>Delete Heretaunga Aquifer. Federated Farmers continues to seek deletion of the outstanding water body status altogether.</p> <p>The regulatory impact of the proposed outstanding status deeply concerns us, has not been properly assessed.</p> <p>Our position that existing farming land and water use needs to be recognised and provided for remains.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, Geology	<p>The Heretaunga aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Heretaunga Plains.</p> <p>The Heretaunga aquifer system is a taonga of Ngati Kahungunu, who know the aquifer system as the "Heretaunga Ararau Haukūnui", being a large water resource, represented in the many rivers, creeks, the small tributaries fed by underground springs, springs of water, swampy ground, swimming holes, rock pools and quick sands.</p> <p>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.**</p>						

<p>Karamu River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Karamu River, given it only meets a single criterion. <p>The Karamu River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>We are also concerned as to whether this criterion is met throughout the entire 51,462ha catchment, or just to part of the river.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>We are relieved to see the recognition of primary production water use, but given so much primary production occurs here it needs to be an outstanding value, and also needs to be extended to recognise primary production land use.</p>	<p>Page 78 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1014 268 1361 292">Description of outstanding values</th> <th data-bbox="1361 268 1601 292">Significant value(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1014 292 1361 783"> <p>The Karamū River begins at lake Poukawa, flowing through Havelock North and the Karamū area to join the Clive River at Pakowhai. It was once the main channel of the Ngaruroro River, but following a major flood in 1867 the Ngaruroro River changed its course to its current course, leaving behind a smaller flow, named the Karamū in reference to the Karamū trees which grew in abundance in this area. The Karamū River is taonga of Ngāti Hori, an important freshwater fishery for hapū. Maori have a long history of occupation and travel on and around the Karamū River. Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.</p> <p>**</p> </td> <td data-bbox="1361 292 1601 783"> <p>Ecosystems Indigenous aquatic populations, particularly patiki, tuna, and whitebait, and macroinvertebrate communities Indigenous bird populations Social, recreational and cultural activities including swimming, cultural practices of Uu, rowing and waka ama. Mahinga kai Domestic water supply Primary production water use (including for associated processing and other urban activities)</p> </td> </tr> </tbody> </table>	Description of outstanding values	Significant value(s)	<p>The Karamū River begins at lake Poukawa, flowing through Havelock North and the Karamū area to join the Clive River at Pakowhai. It was once the main channel of the Ngaruroro River, but following a major flood in 1867 the Ngaruroro River changed its course to its current course, leaving behind a smaller flow, named the Karamū in reference to the Karamū trees which grew in abundance in this area. The Karamū River is taonga of Ngāti Hori, an important freshwater fishery for hapū. Maori have a long history of occupation and travel on and around the Karamū River. Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.</p> <p>**</p>	<p>Ecosystems Indigenous aquatic populations, particularly patiki, tuna, and whitebait, and macroinvertebrate communities Indigenous bird populations Social, recreational and cultural activities including swimming, cultural practices of Uu, rowing and waka ama. Mahinga kai Domestic water supply Primary production water use (including for associated processing and other urban activities)</p>	<p>Delete Karamu River. We remain concerned that the Karamu only meets a single criterion and consider outstanding status should be deleted.</p> <p>Ngati Kahungunu provided information in their submission regarding <i>'Whakapapa o te wai'</i>, <i>'Ki Uta ki Tai'</i> and <i>'Hauora o te wai'</i>. However we are still unsure if these values apply to the entire river, or only some stretches.</p> <p>Our position that existing farming land and water use needs to be recognised and provided for remains.</p>
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<p>Kaweka and Ruahine Ranges wetlands</p>	<ul style="list-style-type: none"> Federated Farmers submits that the Kaweka and Ruahine Ranges wetlands meet two or more criteria 	<p>Page 81 in the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1014 1315 1149 1362">Outstanding value(s)</th> <th data-bbox="1149 1315 1601 1362">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values			<p>Delete Kaweka and Ruahine wetlands. Federated Farmers' concerns about the criteria application remain, with even the single criterion for cultural-spiritual</p>
Outstanding value(s)	Description of outstanding values						

	<p>before being found as outstanding, and that these are mapped.</p> <ul style="list-style-type: none"> Federated Farmers submits that any private landowners affected are directly notified and consulted. <p>Federated Farmers is neutral on the outstanding status of these wetlands, because we make an assumption that they occur on Department of Conservation land, and not on private land. However if private landowners are indeed affected, they need to be directly consulted with.</p> <p>Again we have concerns that only a single criterion has been met, and that these wetlands are unmapped.</p>	<table border="1"> <tr> <td data-bbox="1016 193 1144 268">Cultural, spiritual.</td> <td data-bbox="1144 193 1599 268">Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values.**</td> </tr> </table>	Cultural, spiritual.	Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values.**	<p>values in doubt when we read the Section 42a Report saying <i>No information on the cultural and spiritual values associated with the Kaweka & Ruahine Ranges wetlands was found during Phase 1 (para 617) The local expert panel did not find the Kaweka & Ruahine Ranges wetlands to have outstanding cultural and spiritual values (para 618) and No further information specific to the Kaweka & Ruahine Ranges wetlands was received during the Change 7 submission period (para 619)</i></p> <p>It sounds to us that these wetlands do not meet any criteria, and therefore they should not be classified as outstanding.</p>		
Cultural, spiritual.	Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values.**						
<p>Lake Rotoroa and Lake Rototuna</p>	<ul style="list-style-type: none"> Federated Farmers supports the outstanding status of Lakes Rotoroa and Rototuna. <p>These lakes are a good example of the outstanding threshold being high, as they have no signs of human modifications, and are located in the Kaweka Forest Park and meet three criteria (cultural and spiritual; ecology; natural character.)</p>	<p>Page 83 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 916 1211 970">Outstanding value(s)</th> <th data-bbox="1211 916 1599 970">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 970 1211 1385">Cultural, spiritual, ecology (<u>habitat for native fish and native plants</u>), natural character</td> <td data-bbox="1211 970 1599 1385"> <p>Lake Rototuna and Lake Rotoroa are situated in the Kaweka Forest Park, surrounded by indigenous vegetation, with no sign of human modifications.</p> <p>The Lakes are ecologically significant because of the large number of plant species and vegetation types in the surrounding area.</p> <p>Lake Rototuna is the best example of a waterbody that still remains in an all-native vegetated state in the region and supports the best composition of submerged aquatic plants in Hawke's Bay. Lake Rotoroa has a large population of kōaro which are 'lake-locked' and carry out their entire life cycle in freshwater.</p> <p>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for native fish and native plants</u>), natural character	<p>Lake Rototuna and Lake Rotoroa are situated in the Kaweka Forest Park, surrounded by indigenous vegetation, with no sign of human modifications.</p> <p>The Lakes are ecologically significant because of the large number of plant species and vegetation types in the surrounding area.</p> <p>Lake Rototuna is the best example of a waterbody that still remains in an all-native vegetated state in the region and supports the best composition of submerged aquatic plants in Hawke's Bay. Lake Rotoroa has a large population of kōaro which are 'lake-locked' and carry out their entire life cycle in freshwater.</p> <p>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges</p>	<p>Support Lakes Rotoroa and Rototuna.</p> <p>Federated Farmers supports the outstanding status of these lakes.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>habitat for native fish and native plants</u>), natural character	<p>Lake Rototuna and Lake Rotoroa are situated in the Kaweka Forest Park, surrounded by indigenous vegetation, with no sign of human modifications.</p> <p>The Lakes are ecologically significant because of the large number of plant species and vegetation types in the surrounding area.</p> <p>Lake Rototuna is the best example of a waterbody that still remains in an all-native vegetated state in the region and supports the best composition of submerged aquatic plants in Hawke's Bay. Lake Rotoroa has a large population of kōaro which are 'lake-locked' and carry out their entire life cycle in freshwater.</p> <p>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges</p>						

		wetlands have outstanding cultural and spiritual values.**				
<p>Lake Poukawa and Pekapeka Swamp</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Lake Poukawa and Pekapeka Swamp given they only meet a single criterion. <p>The Lake Poukawa and Pekapeka Swamp only meet a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with. Given these are discrete and well-defined waterbodies, identifying landowners will be possible.</p>	<p>Page 87 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1014 344 1167 395">Outstanding value(s)</th> <th data-bbox="1167 344 1599 395">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1014 395 1167 1209"> Cultural, spiritual, Ecology (habitat for aquatic birds) </td> <td data-bbox="1167 395 1599 1209"> <p>Lake Poukawa, also known as Te Wai-nui-a-Tara, is a small shallow lake with a surface area of 89 hectares. The lake has an adjoining margin of wetland vegetation which is intermittently covered in water depending on the time of year. The wetland area contains swamp nettle (<i>Urtica linearifolia</i>) and the acutely threatened aquatic liverwort (<i>Ricciocarpos natans</i>) which is nationally endangered.]</p> <p>The Lake Poukawa has been declared a non-commercial eel fishery, one of only a few lakes in New Zealand to have this designation. Lake Poukawa is a taonga of Heretaunga Tamatea, traditionally used for food gathering. The Lake is well known for its eel fishery which is of considerable cultural importance to the people of Te Hauke and their hapū Ngai Te Rangikoianake. The history of Lake Poukawa is directly related to the eels of the lake. The mana of each chief of Te Wheao is related to control of Lake Poukawa and its resources. Lake Poukawa has been the scene of many battles, with a number of wāhi tapu and wāhi taonga sites in the area. The origin of the name 'Poukawa' is said to have arose as a result of a disagreement between two local chiefs Te Rangihirawea and Te Rangikawhiua over fishing rights in the lake. Lake Poukawa supports a high diversity of bird species, with notably high numbers of the Australasian Bittern, New Zealand dabchick, pied stilt, and shoveler ducks.</p> <p>Tāngata whenua of the region have advised that Lake Rotoroa and Lake Rototuna have outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, Ecology (habitat for aquatic birds)	<p>Lake Poukawa, also known as Te Wai-nui-a-Tara, is a small shallow lake with a surface area of 89 hectares. The lake has an adjoining margin of wetland vegetation which is intermittently covered in water depending on the time of year. The wetland area contains swamp nettle (<i>Urtica linearifolia</i>) and the acutely threatened aquatic liverwort (<i>Ricciocarpos natans</i>) which is nationally endangered.]</p> <p>The Lake Poukawa has been declared a non-commercial eel fishery, one of only a few lakes in New Zealand to have this designation. Lake Poukawa is a taonga of Heretaunga Tamatea, traditionally used for food gathering. The Lake is well known for its eel fishery which is of considerable cultural importance to the people of Te Hauke and their hapū Ngai Te Rangikoianake. The history of Lake Poukawa is directly related to the eels of the lake. The mana of each chief of Te Wheao is related to control of Lake Poukawa and its resources. Lake Poukawa has been the scene of many battles, with a number of wāhi tapu and wāhi taonga sites in the area. The origin of the name 'Poukawa' is said to have arose as a result of a disagreement between two local chiefs Te Rangihirawea and Te Rangikawhiua over fishing rights in the lake. Lake Poukawa supports a high diversity of bird species, with notably high numbers of the Australasian Bittern, New Zealand dabchick, pied stilt, and shoveler ducks.</p> <p>Tāngata whenua of the region have advised that Lake Rotoroa and Lake Rototuna have outstanding cultural and spiritual values.**</p>
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			<p>Delete Lake Poukawa and Pekapeka Swamp. Does Lake Poukawa meet one or two criteria? Federated Farmers is interested that the S.42a Report discusses aquatic birds as an additional value from the initial proposal, and that a second outstanding criterion might be met. We hope that this new evidence is robust. We'd be more accepting of this waterbody being classified as outstanding if it met two criteria rather than the initial one (being cultural/spiritual, and aquatic birds.)</p> <p>However the aquatic bird habitat value is in doubt, as S.42a report describes the lake in paragraph 660 as being in a degraded state, suffering algal blooms the impact water quality and habitat. This makes us question if the lake can be viewed as being "best of the best" and meet the outstanding threshold, as the habitat is considered degraded then how can it meet the aquatic bird habitat criterion?</p> <p>The purpose of PC7 is not to enhance characteristics, nor to improve already outstanding values further as noted in paragraph 42 of the S.42a report.</p>			

			<p>Classifying Lake Poukawa as outstanding with the aim of improving it, is contrary to the plan change's purpose.</p> <p>We remain concerned that the landowners and landusers have not been consulted directly, the landuser is a member of FFNZ. It is our understanding that a private restoration project for Lake Poukawa is already underway, in which case the Council needs to consult more to find out. The landowner should be able to inform the Council as to their cultural values too.</p> <p>Our position that existing farming land and water use needs to be recognised and provided for remains.</p>				
<p>Lake Tutira</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from Lake Tutira given it only meets a single criterion. This lake should certainly not be considered the best-of-the-best compared to other waterbodies in the region. <p>Lake Tutira only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	<p>Page 90 of the Section 42a Report.</p> <table border="1" data-bbox="1016 951 1601 1396"> <thead> <tr> <th data-bbox="1016 951 1160 1002">Outstanding value(s)</th> <th data-bbox="1160 951 1601 1002">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1002 1160 1396">Cultural, spiritual.</td> <td data-bbox="1160 1002 1601 1396"> <p>Lake Tūtira (including Aropaoanui River and Papakiri Stream) is a taonga of Ngāti Kurumōkihi, celebrated as a place of sustenance to replenish one's mind, body and soul. Ngāti Kurumōkihi carried out ceremonies and rituals at designated places at Tūtira, such as tohi (baptisms). Some rongoā (medicinal plants) are only found in or around Lake Tūtira. There are a number of wāhi tapu, wāhi taonga and wai tapu sites in the area.</p> <p>The inlet to Lake Tūtira is Papakiri Stream and is integral to the distinct identity and mana of the hapū. Its importance is due to its connection with Lake Tūtira and its reputation as a significant mahinga kai site.</p> <p>The hapū have a whakatauaēki about the lake being: "ko te waiū o ō tātau tīpuna" – "the milk of our</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	<p>Lake Tūtira (including Aropaoanui River and Papakiri Stream) is a taonga of Ngāti Kurumōkihi, celebrated as a place of sustenance to replenish one's mind, body and soul. Ngāti Kurumōkihi carried out ceremonies and rituals at designated places at Tūtira, such as tohi (baptisms). Some rongoā (medicinal plants) are only found in or around Lake Tūtira. There are a number of wāhi tapu, wāhi taonga and wai tapu sites in the area.</p> <p>The inlet to Lake Tūtira is Papakiri Stream and is integral to the distinct identity and mana of the hapū. Its importance is due to its connection with Lake Tūtira and its reputation as a significant mahinga kai site.</p> <p>The hapū have a whakatauaēki about the lake being: "ko te waiū o ō tātau tīpuna" – "the milk of our</p>	<p>Delete Lake Tutira. Federated Farmers considers that the current degraded state (acknowledged in paragraph 686 of the S.42a report) means Lake Tutira should not be an outstanding waterbody, and demonstrates that the threshold is far too low. Classifying Lake Tutira as outstanding with the aim of improving water quality or amenity, or assessing it on past or potential values that aren't currently present, is contrary to the plan change's purpose.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	<p>Lake Tūtira (including Aropaoanui River and Papakiri Stream) is a taonga of Ngāti Kurumōkihi, celebrated as a place of sustenance to replenish one's mind, body and soul. Ngāti Kurumōkihi carried out ceremonies and rituals at designated places at Tūtira, such as tohi (baptisms). Some rongoā (medicinal plants) are only found in or around Lake Tūtira. There are a number of wāhi tapu, wāhi taonga and wai tapu sites in the area.</p> <p>The inlet to Lake Tūtira is Papakiri Stream and is integral to the distinct identity and mana of the hapū. Its importance is due to its connection with Lake Tūtira and its reputation as a significant mahinga kai site.</p> <p>The hapū have a whakatauaēki about the lake being: "ko te waiū o ō tātau tīpuna" – "the milk of our</p>						

	<p>Given that the Tutira water quality is currently bad (due to a combination of factors) which reduces other values, we hope that the “past or potential” value is not being assessed here. The HBRC FAQ sheet paragraph 6 emphasises that past or potential values don’t count.</p>	<p>ancestors”. This whakatauaiki references the abundance of kai that could be sourced from the lake and the lake providing spiritual sustenance. Lake Tūtira was famous for the best flavoured tuna (eel). The Aropaoanui River/Waikoau River originates at the tihī tapu (sacred peaks) of the central area of Maungaharuru. The Aropaoanui River is one of the most significant awa in the takiwā (traditional area of the hapū), linking two of the most culturally and historically important areas of the hapū, being Tūtira and Aropaoanui. The river provided an important connection between Maungaharuru and the coast, allowing for seasonal movements of the hapū. During peace Ngāti Kurumōkihi dwelt around the coastal estuaries and the lake. During war they sheltered in the forests and the hinterland. There was intensive Māori occupation around Lake Tūtira and numerous sites of significance. As a prized taonga, many raids and battles occurred at Lake Tūtira. Tāngata whenua of the region have advised that Lake Tūtira (including Aropaoanui River and Papakiri Stream) have outstanding cultural and spiritual values.**</p>	<p>The S.42a report notes in paragraph 698 that the local expert panel did not find Lake Tutira to have outstanding cultural and spiritual values, so this raises a question as to the evidence to justify the outstanding status.</p> <p>Our position that existing farming land and water use needs to be recognised and provided for remains, and that consultation with landowners is required.</p>				
<p>Lake Waikareiti</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from Lake Waikareiti given it only meets a single criterion. <p>Lake Waikareiti only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Given that it only meets one criterion, we question whether this lake is included because of its closeness to another outstanding waterbody: Lake</p>	<p>Page 94 of the Section 42a Report.</p> <table border="1" data-bbox="1016 884 1599 1235"> <thead> <tr> <th data-bbox="1016 884 1155 938">Outstanding value(s)</th> <th data-bbox="1155 884 1599 938">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 938 1155 1235">Cultural, spiritual.</td> <td data-bbox="1155 938 1599 1235"> <p>The cultural values and associations for Lake Waikareiti are closely linked to those of Lake Waikaremoana. Both were important seasonal food sources and strategic locations in the relationships between tribes. Colonies of kawau (bird/shag) at Lake Waikareiti were spiritually significant due to their ‘guardian- like activities’ Tāngata whenua of the region have advised that Lake Waikareiti has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	<p>The cultural values and associations for Lake Waikareiti are closely linked to those of Lake Waikaremoana. Both were important seasonal food sources and strategic locations in the relationships between tribes. Colonies of kawau (bird/shag) at Lake Waikareiti were spiritually significant due to their ‘guardian- like activities’ Tāngata whenua of the region have advised that Lake Waikareiti has outstanding cultural and spiritual values.**</p>	<p>Delete Waikareiti. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p> <p>The landowner looks so opposed to the classification that they have declined to participate. This indicates to Federated Farmers that the consultation process with landowners needs to be much better. This Lake is included in Te Urewera Act 2014 which states its purpose as “...to establish and preserve in perpetuity a legal identity and</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	<p>The cultural values and associations for Lake Waikareiti are closely linked to those of Lake Waikaremoana. Both were important seasonal food sources and strategic locations in the relationships between tribes. Colonies of kawau (bird/shag) at Lake Waikareiti were spiritually significant due to their ‘guardian- like activities’ Tāngata whenua of the region have advised that Lake Waikareiti has outstanding cultural and spiritual values.**</p>						

	<p>Waikaremoana. Being close to another waterbody is not a criterion.</p>		<p><i>protected status for Te Urewera for its intrinsic worth, its distinctive natural and cultural values...</i>" so doesn't need to be classified as an outstanding waterbody to be protected for its cultural values.</p>				
<p>Lake Waikaremoana</p>	<ul style="list-style-type: none"> Federated Farmers supports the outstanding status of Lake Waikaremoana. <p>Federated Farmers supports the outstanding status of Lake Waikaremoana. It meets 6 criteria (cultural and spiritual; ecology; natural character; landscape; geology, recreation) and is a good example of an exceptional waterbody.</p>	<p>Page 96 of the Section 42a Report.</p> <table border="1" data-bbox="1016 448 1601 1359"> <thead> <tr> <th data-bbox="1016 448 1196 499">Outstanding value(s)</th> <th data-bbox="1196 448 1601 499">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 499 1196 1359"> <p>Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>), natural character, landscape & geology, recreation</p> </td> <td data-bbox="1196 499 1601 1359"> <p>Lake Waikaremoana is situated in <i>Te Urewera</i> surrounded by pristine native forest and spectacular mountain ridges, and is often referred to as a 'jewel in the crown' of New Zealand landscapes. The name Lake Waikaremoana means the sea of rippling waters. It was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River.</p> <p>Legend tells of how Lake Waikaremoana was created. Having been turned into a taniwha, Haumapuhia, desperately tried to find an outlet to the sea before the sun rose. Her ceaseless thrashing upturned the hills and formed the various bays, inlets and features we see today. Lake Waikaremoana is an important taonga, with many pā, urupā and wāhi tapu sites located around its edge, and was the scene of many battles.</p> <p>Lake Waikaremoana is the North Island's deepest lake, reaching depths of 248 m, and Hawke's Bay's largest lake. The lake has exceptional water quality and is in excellent ecological condition with a high number of native aquatic plant species. It is the best example of diverse aquatic vegetation in a large, deep, clear lake in Hawke's Bay and the North Island. The Lake has a high number of submerged plants, with an excellent indigenous turf community that has high native species diversity, and the nationally rare charophyte <i>Nitella opaca</i>.</p> <p>Lake Waikaremoana is renowned for its spectacular scenery and its clear pristine water. It is popular for a range of activities including angling, swimming and boating. The Lake</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	<p>Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>), natural character, landscape & geology, recreation</p>	<p>Lake Waikaremoana is situated in <i>Te Urewera</i> surrounded by pristine native forest and spectacular mountain ridges, and is often referred to as a 'jewel in the crown' of New Zealand landscapes. The name Lake Waikaremoana means the sea of rippling waters. It was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River.</p> <p>Legend tells of how Lake Waikaremoana was created. Having been turned into a taniwha, Haumapuhia, desperately tried to find an outlet to the sea before the sun rose. Her ceaseless thrashing upturned the hills and formed the various bays, inlets and features we see today. Lake Waikaremoana is an important taonga, with many pā, urupā and wāhi tapu sites located around its edge, and was the scene of many battles.</p> <p>Lake Waikaremoana is the North Island's deepest lake, reaching depths of 248 m, and Hawke's Bay's largest lake. The lake has exceptional water quality and is in excellent ecological condition with a high number of native aquatic plant species. It is the best example of diverse aquatic vegetation in a large, deep, clear lake in Hawke's Bay and the North Island. The Lake has a high number of submerged plants, with an excellent indigenous turf community that has high native species diversity, and the nationally rare charophyte <i>Nitella opaca</i>.</p> <p>Lake Waikaremoana is renowned for its spectacular scenery and its clear pristine water. It is popular for a range of activities including angling, swimming and boating. The Lake</p>	<p>Neutral on Lake Waikaremoana.</p> <p>Federated Farmers supports the fact that this lake meets six criteria. It is the type of waterbody we envisage when thinking of "outstanding."</p> <p>However we note that landowners Ngai Tuhoë, and the Lake Waikaremoana Tribal Authority, both oppose its classification as an outstanding waterbody. As above, we have also discovered that Te Urewera Act 2014 includes this lake and protection of values is already enshrined in legislation. On these bases, we defer to the landowner's opinion on whether or not Lake Waikaremoana should be an outstanding waterbody.</p>
Outstanding value(s)	Description of outstanding values						
<p>Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>), natural character, landscape & geology, recreation</p>	<p>Lake Waikaremoana is situated in <i>Te Urewera</i> surrounded by pristine native forest and spectacular mountain ridges, and is often referred to as a 'jewel in the crown' of New Zealand landscapes. The name Lake Waikaremoana means the sea of rippling waters. It was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River.</p> <p>Legend tells of how Lake Waikaremoana was created. Having been turned into a taniwha, Haumapuhia, desperately tried to find an outlet to the sea before the sun rose. Her ceaseless thrashing upturned the hills and formed the various bays, inlets and features we see today. Lake Waikaremoana is an important taonga, with many pā, urupā and wāhi tapu sites located around its edge, and was the scene of many battles.</p> <p>Lake Waikaremoana is the North Island's deepest lake, reaching depths of 248 m, and Hawke's Bay's largest lake. The lake has exceptional water quality and is in excellent ecological condition with a high number of native aquatic plant species. It is the best example of diverse aquatic vegetation in a large, deep, clear lake in Hawke's Bay and the North Island. The Lake has a high number of submerged plants, with an excellent indigenous turf community that has high native species diversity, and the nationally rare charophyte <i>Nitella opaca</i>.</p> <p>Lake Waikaremoana is renowned for its spectacular scenery and its clear pristine water. It is popular for a range of activities including angling, swimming and boating. The Lake</p>						

		Waikaremoana Track is one of the 10 Great Walks of New Zealand. Tāngata whenua of the region have advised that Lake Waikaremoana has outstanding cultural and spiritual values.**					
Whakaki Lake – Te Paeroa Lagoon- Wairau Lagoon and wetlands	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted. Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Page 103 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th>Outstanding value(s)</th> <th>Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td>Cultural, spiritual, ecology (habitat for aquatic birds)</td> <td> <p>Whakakī Lake (Te Whakakī Lagoon) is a 400 hectare coastal lake which is separated from the sea by a narrow strip of sand dunes on its southern shore. The name of Te Whakakī Lagoon is based on a word meaning 'to fill', referring to the lagoon. Whakakī Lake is the second largest coastal lake on the North Island's east coast. The lake has an additional 200 hectares of adjacent wetland margin comprising sand dunes and swamp areas, and is part of a much larger wetland complex which includes the Ngamotu lagoon, Ohuia Lagoon, Waihoratuna Lagoon, Wairau Lagoon, Te Paeroa Lagoon, Rahui Channel, and Patangata Lagoon. Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type both in New Zealand and internationally. The wetland complex has significant wildlife values supporting a high diversity of waterbirds, including the globally endangered Australasian Bittern.</p> <p>Te Whakakī Lagoon is of spiritual and cultural significance to Ngāti Kahukura, Ngāti Kirituna and hapū of Te Whakakī Nui-a-Rua. The lake was a central feature of local hapū identity, highly valued, respected and admired. The area was important mahinga kai for local Māori and had a rich variety of food, including tuna, shellfish and birdlife.</p> <p>Tāngata whenua of the region have advised that Whakakī Lake – Te Paeroa Lagoon – Wairau Lagoon and wetlands have outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (habitat for aquatic birds)	<p>Whakakī Lake (Te Whakakī Lagoon) is a 400 hectare coastal lake which is separated from the sea by a narrow strip of sand dunes on its southern shore. The name of Te Whakakī Lagoon is based on a word meaning 'to fill', referring to the lagoon. Whakakī Lake is the second largest coastal lake on the North Island's east coast. The lake has an additional 200 hectares of adjacent wetland margin comprising sand dunes and swamp areas, and is part of a much larger wetland complex which includes the Ngamotu lagoon, Ohuia Lagoon, Waihoratuna Lagoon, Wairau Lagoon, Te Paeroa Lagoon, Rahui Channel, and Patangata Lagoon. Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type both in New Zealand and internationally. The wetland complex has significant wildlife values supporting a high diversity of waterbirds, including the globally endangered Australasian Bittern.</p> <p>Te Whakakī Lagoon is of spiritual and cultural significance to Ngāti Kahukura, Ngāti Kirituna and hapū of Te Whakakī Nui-a-Rua. The lake was a central feature of local hapū identity, highly valued, respected and admired. The area was important mahinga kai for local Māori and had a rich variety of food, including tuna, shellfish and birdlife.</p> <p>Tāngata whenua of the region have advised that Whakakī Lake – Te Paeroa Lagoon – Wairau Lagoon and wetlands have outstanding cultural and spiritual values.**</p>	<p>Consultation with landowners needed. Federated Farmers is more accepting of these waterbodies being classified as outstanding if they meet a second criterion, being habitat for aquatic birds.</p> <p>However we remain concerned that landowners have not been contacted and consulted with, because the surrounding land is used for farming and the outstanding status will have a direct impact on them. Using our database, Federated Farmers has identified three farms that are affected.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (habitat for aquatic birds)	<p>Whakakī Lake (Te Whakakī Lagoon) is a 400 hectare coastal lake which is separated from the sea by a narrow strip of sand dunes on its southern shore. The name of Te Whakakī Lagoon is based on a word meaning 'to fill', referring to the lagoon. Whakakī Lake is the second largest coastal lake on the North Island's east coast. The lake has an additional 200 hectares of adjacent wetland margin comprising sand dunes and swamp areas, and is part of a much larger wetland complex which includes the Ngamotu lagoon, Ohuia Lagoon, Waihoratuna Lagoon, Wairau Lagoon, Te Paeroa Lagoon, Rahui Channel, and Patangata Lagoon. Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type both in New Zealand and internationally. The wetland complex has significant wildlife values supporting a high diversity of waterbirds, including the globally endangered Australasian Bittern.</p> <p>Te Whakakī Lagoon is of spiritual and cultural significance to Ngāti Kahukura, Ngāti Kirituna and hapū of Te Whakakī Nui-a-Rua. The lake was a central feature of local hapū identity, highly valued, respected and admired. The area was important mahinga kai for local Māori and had a rich variety of food, including tuna, shellfish and birdlife.</p> <p>Tāngata whenua of the region have advised that Whakakī Lake – Te Paeroa Lagoon – Wairau Lagoon and wetlands have outstanding cultural and spiritual values.**</p>						
Lake Whatuma	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted. 	<p>Page 106 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th>Outstanding value(s)</th> <th>Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values			<p>Consultation with landowners needed. Federated Farmer remains concerned that the landowners have not been</p>
Outstanding value(s)	Description of outstanding values						

	<ul style="list-style-type: none"> Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with. Given this is a discrete and well-defined waterbody, identifying landowners will be possible.</p>	<p>Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)</p> <p>Lake Whatumā is 160 hectares in size, with an additional adjacent wetland margin of around 76 hectares. The lake supports a high diversity of birds and is home to the largest population of the globally endangered Australasian bittern in Hawke’s Bay.</p> <p>Lake Whatumā is a taonga of the hapū of Heretaunga Tamatea. The name refers to the discoverers of the lake who ate tuna (eels) they found there until their hunger was satisfied. The lake was a significant mahinga kai. As well as tuna, it was also known for other freshwater fish, freshwater mussels, birds (including kereru), and raupo pollen.</p> <p>Lake Whatumā was a traditional area of residence to a permanent population and was utilised by a number of surrounding hapū who travelled to the lake to gather resources on a seasonal basis. There are numerous remains of middens, tools, bones, pits, chisels and axes indicating there was a high population in the area.</p> <p>Tāngata whenua of the region have advised that Lake Whatumā has outstanding cultural and spiritual values.**</p>	<p>consulted, given that this lake is surrounded by farming.</p> <p>This lake is well-known and very popular for its duck shooting, so will the outstanding status prevent this activity?</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for.</p>				
<p>Makirikiri River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Makirikiri River, given it only meets a single criterion. More information is needed as to the location of this waterbody. <p>The Makirikiri River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Federated Farmers is unsure where this waterbody is located, what the surrounding</p>	<p>Page 108 of the Section 42a Report.</p> <table border="1" data-bbox="1016 858 1594 1182"> <thead> <tr> <th data-bbox="1016 858 1146 911">Outstanding value(s)</th> <th data-bbox="1146 858 1594 911">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 911 1146 1182">Cultural, sprirtual.</td> <td data-bbox="1146 911 1594 1182"> <p>The Makirikiri River is situated to the south of Takapau. It is a tributary of the Porangahau Stream which flows into the Tukituki River.</p> <p>The Makirikiri River is culturally significant to the people of Te Rongo a Tahu Marae as a mahinga kai and recreational area.</p> <p>The Makirikiri River was particularly notable for its tuna and koura.</p> <p>Tāngata whenua of the region have advised that the Makirikiri River has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, sprirtual.	<p>The Makirikiri River is situated to the south of Takapau. It is a tributary of the Porangahau Stream which flows into the Tukituki River.</p> <p>The Makirikiri River is culturally significant to the people of Te Rongo a Tahu Marae as a mahinga kai and recreational area.</p> <p>The Makirikiri River was particularly notable for its tuna and koura.</p> <p>Tāngata whenua of the region have advised that the Makirikiri River has outstanding cultural and spiritual values.**</p>	<p>Delete Makirikiri River. Federated Farmers remains opposed to the classification of the Makirikiri Stream given that it only meets a single criterion. It appears that it doesn’t even meet this criterion, given that para 848 says there was no information on cultural/spiritual values, and para 849 says that the local expert panel do not find it to have outstanding cultural/spiritual values</p> <p>The map allows us to see the location, but calls it a stream rather than a river. Now we know where the site is, we also see it is surrounded by farms. Given that</p>
Outstanding value(s)	Description of outstanding values						
Cultural, sprirtual.	<p>The Makirikiri River is situated to the south of Takapau. It is a tributary of the Porangahau Stream which flows into the Tukituki River.</p> <p>The Makirikiri River is culturally significant to the people of Te Rongo a Tahu Marae as a mahinga kai and recreational area.</p> <p>The Makirikiri River was particularly notable for its tuna and koura.</p> <p>Tāngata whenua of the region have advised that the Makirikiri River has outstanding cultural and spiritual values.**</p>						

	<p>landuse is, or if any private landowners are affected. The only stream of this name we were able to find was up in the Ruahine Ranges.</p>		<p>the map shows only a very short stream, identifying and consulting the landowner should be straightforward and needs to be done.</p> <p>The S.42a Report says it was a municipal rubbish dump and degraded (paragraph 843.) Classifying a rubbish dump stream as outstanding undermines confidence in the whole assessment process and seems ridiculous.</p>				
<p>Mangahouanga Stream</p>	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted. <p>Private landowners will be affected and there is surrounding forestry landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p> <p>The geological criterion sounds like it is exceptional, being the location of New Zealand's most significant dinosaur fossils. This is a good example of a high outstanding threshold being justified.</p>	<p>Page 111 of the Section 42a Report.</p> <table border="1" data-bbox="1016 663 1601 1011"> <thead> <tr> <th data-bbox="1016 663 1151 715">Outstanding value(s)</th> <th data-bbox="1151 663 1601 715">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 715 1151 1011">Cultural, spiritual, geology.</td> <td data-bbox="1151 715 1601 1011">The Mangahouanga Stream is a small stream located in northern Hawke's Bay. The Stream is internationally renowned due to the discovery of dinosaur bones at the site. The remains of six separate species of dinosaurs (four new species), and New Zealand's oldest fossil insect have been found in the Mangahouanga Stream. To date, the Mangahouanga Stream is the only place in New Zealand where significant dinosaur remains have been found. Tāngata whenua of the region have advised that the Mangahouanga Stream has outstanding cultural and spiritual values.**</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, geology.	The Mangahouanga Stream is a small stream located in northern Hawke's Bay. The Stream is internationally renowned due to the discovery of dinosaur bones at the site. The remains of six separate species of dinosaurs (four new species), and New Zealand's oldest fossil insect have been found in the Mangahouanga Stream. To date, the Mangahouanga Stream is the only place in New Zealand where significant dinosaur remains have been found. Tāngata whenua of the region have advised that the Mangahouanga Stream has outstanding cultural and spiritual values.**	<p>Neutral on the Mangahaounga Stream. Federated Farmers supports the classification of this stream, given that it meets two criteria and does sound very unique.</p> <p>However is this stream it included within the Te Urewera Act 2014? Or the Ngati Hineurur Settlement Act 20 the We still consider any surrounding landowners be consulted.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, geology.	The Mangahouanga Stream is a small stream located in northern Hawke's Bay. The Stream is internationally renowned due to the discovery of dinosaur bones at the site. The remains of six separate species of dinosaurs (four new species), and New Zealand's oldest fossil insect have been found in the Mangahouanga Stream. To date, the Mangahouanga Stream is the only place in New Zealand where significant dinosaur remains have been found. Tāngata whenua of the region have advised that the Mangahouanga Stream has outstanding cultural and spiritual values.**						
<p>Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune wetlands</p>	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted. 	<p>Page 114 of the Section 42a Report.</p> <table border="1" data-bbox="1016 1206 1601 1382"> <thead> <tr> <th data-bbox="1016 1206 1151 1257">Outstanding value(s)</th> <th data-bbox="1151 1206 1601 1257">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1257 1151 1382">Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)</td> <td data-bbox="1151 1257 1601 1382">Maungawhio Lagoon is a salt water lagoon that joins Oraka Beach, by the Mahia Peninsula, and is a site of significance to Te Rohe o Te Wairoa and Ngāti Kahungunu Iwi Inc. It was known as a significant mahinga kai.</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)	Maungawhio Lagoon is a salt water lagoon that joins Oraka Beach, by the Mahia Peninsula, and is a site of significance to Te Rohe o Te Wairoa and Ngāti Kahungunu Iwi Inc. It was known as a significant mahinga kai.	<p>Delete Maunagawhio lagoon, lower Kopuawhara River and Pukenui Dune wetlands. Given this is already a gazetted Wildlife Management Reserve, perhaps the aquatic bird habitat outstanding value is already being</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)	Maungawhio Lagoon is a salt water lagoon that joins Oraka Beach, by the Mahia Peninsula, and is a site of significance to Te Rohe o Te Wairoa and Ngāti Kahungunu Iwi Inc. It was known as a significant mahinga kai.						

	<ul style="list-style-type: none"> Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>It appears that private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with. Given these are discrete and well-defined waterbodies, identifying landowners will be possible.</p>	<p>The name 'Maungawhio' means 'the whistling, howling hills' and refers to the strong winds which pass over the lagoon. It was here that the Tākitimu waka arrived at Mahia and became stuck. Ruawhoro, the tohunga of Tākitimu, left the waka here, assisting it to continue with its journey saying 'Mahia nga mahi mai i Tawhiti'. (<u>"To get on with the work that stretches across a great distance"</u>).</p> <p>The Maungawhio Lagoon supports a high diversity of birds, including a high number of threatened species being the Australasian bittern, shore plover, black billed gull, reef heron, banded dotterel, Caspian tern, lesser knot.</p> <p>Tāngata whenua of the region have advised that Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands have outstanding cultural and spiritual values.**</p>	<p>protected by this alternative mechanism. Further consideration is needed.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and consultation with landowners is required.</p>				
Mohaka River	<ul style="list-style-type: none"> Federated Farmers submits that only the upper Mohaka, above Willow Flat, where the values present is classified as outstanding, rather than the entire river. Federated Farmers submits that private landowners affected are directly notified and consulted. Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>The upper Mohaka (above Willow Flat) is where the criteria are met as shown in the Secondary Assessment Report and the WCO, therefore the outstanding status should be limited only to that upper extent.</p>	<p>Page 117 of the Section 42a Report.</p> <table border="1" data-bbox="1016 699 1603 1369"> <thead> <tr> <th data-bbox="1016 699 1263 724">Outstanding value(s)</th> <th data-bbox="1263 699 1603 724">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 724 1263 1369">Cultural, spiritual, ecology (<u>macroinvertebrates, habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling, rafting, kayaking</u>)</td> <td data-bbox="1263 724 1603 1369"> <p>The upper parts of the Mohaka River are in a highly natural state, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The river flows through a variety of stunning landscapes, from large native forest areas, to remote countryside and through spectacular gorges, over some powerful rapids and around a horseshoe bend.</p> <p>The Mohaka River is widely recognised in New Zealand as a 'top quality wildemess trout fishery' and for its exceptional rafting and kayaking experiences, which can occur in a natural setting.</p> <p>In 2004, a water conservation order was placed over the Mohaka River (above <u>Willow Flat</u>) in recognition of the river's nationally outstanding scenic characteristics, trout fishery, rafting and canoeing values.</p> <p>The Mohaka River is an important taonga with and there are numerous settlements and sites of significance along its length.</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>macroinvertebrates, habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling, rafting, kayaking</u>)	<p>The upper parts of the Mohaka River are in a highly natural state, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The river flows through a variety of stunning landscapes, from large native forest areas, to remote countryside and through spectacular gorges, over some powerful rapids and around a horseshoe bend.</p> <p>The Mohaka River is widely recognised in New Zealand as a 'top quality wildemess trout fishery' and for its exceptional rafting and kayaking experiences, which can occur in a natural setting.</p> <p>In 2004, a water conservation order was placed over the Mohaka River (above <u>Willow Flat</u>) in recognition of the river's nationally outstanding scenic characteristics, trout fishery, rafting and canoeing values.</p> <p>The Mohaka River is an important taonga with and there are numerous settlements and sites of significance along its length.</p>	<p>Outstanding status of the Mohaka River should be limited to only where values are present. Federated Farmers remains of the view that only the upper section of river that has the outstanding values present, should be classified as outstanding. The outstanding status should be removed from the lower reaches.</p> <p>The Water Conservation (Mohaka River) Order 2004 acknowledges and protects four values reach the outstanding threshold, and where these values are present: an outstanding trout fishery in the mainstream upstream of the State Highway 5 bridge and in the tributaries; and outstanding scenic characteristics in the Mokonui Gorge; and outstanding scenic characteristics in the Te Hoe</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>macroinvertebrates, habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling, rafting, kayaking</u>)	<p>The upper parts of the Mohaka River are in a highly natural state, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The river flows through a variety of stunning landscapes, from large native forest areas, to remote countryside and through spectacular gorges, over some powerful rapids and around a horseshoe bend.</p> <p>The Mohaka River is widely recognised in New Zealand as a 'top quality wildemess trout fishery' and for its exceptional rafting and kayaking experiences, which can occur in a natural setting.</p> <p>In 2004, a water conservation order was placed over the Mohaka River (above <u>Willow Flat</u>) in recognition of the river's nationally outstanding scenic characteristics, trout fishery, rafting and canoeing values.</p> <p>The Mohaka River is an important taonga with and there are numerous settlements and sites of significance along its length.</p>						

	<p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<table border="1"> <tr> <td data-bbox="1016 193 1256 810"></td> <td data-bbox="1256 193 1601 810"> <p>The Mohaka River has been used as a significant boundary marker to define areas of interest. Mohaka is said to have been the name of a river or stream in Hawaiki. It was significant as a highway, being a key route inland, and a traditional area of residence, urupā, pā, kāinga, and other places of spiritual and cultural significance.</p> <p>The Mohaka River provided a wealth of resources, including hangi stones, drinking water and water for spiritual cleansing and healing. It was significant as a mahinga kai resource, the river was plentiful with fish species tuna, trout and koura. The forest around the Mohaka River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes. Tāngata whenua of the region have advised that the Mohaka River has outstanding cultural and spiritual values. **</p> </td> </tr> </table>		<p>The Mohaka River has been used as a significant boundary marker to define areas of interest. Mohaka is said to have been the name of a river or stream in Hawaiki. It was significant as a highway, being a key route inland, and a traditional area of residence, urupā, pā, kāinga, and other places of spiritual and cultural significance.</p> <p>The Mohaka River provided a wealth of resources, including hangi stones, drinking water and water for spiritual cleansing and healing. It was significant as a mahinga kai resource, the river was plentiful with fish species tuna, trout and koura. The forest around the Mohaka River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes. Tāngata whenua of the region have advised that the Mohaka River has outstanding cultural and spiritual values. **</p>	<p>Gorge; and an outstanding amenity for water-based recreation from the State Highway 5 bridge to Willow Flat. Recreation was not found to be outstanding in the WCO, and likewise it should not be outstanding in PC7 either.</p> <p>We agree with paragraphs 452 and 453 of the Section 42a Report which says “... <i>Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists.</i>”</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>		
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<p>Morere Springs</p>	<ul style="list-style-type: none"> If this is located on private land, that the landowner is directly notified and consulted with. <p>Federated Farmers is unsure if this is located on private land. We think it is only on DoC land.</p>	<p>Page 126 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 986 1149 1038">Outstanding value(s)</th> <th data-bbox="1149 986 1601 1038">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1038 1149 1259">Cultural, spiritual.</td> <td data-bbox="1149 1038 1601 1259"> <p>The Morere Springs, meaning ‘the waters of life which come into this world from the other world’ are thermal springs located near Nuhaka. Morere Springs and the surrounding area was a source of natural healing waters, kiekie and other traditional materials used for raranga whariki, kete and traditional rongoa. Tāngata whenua of the region have advised that Morere Springs have outstanding cultural and spiritual values. **</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	<p>The Morere Springs, meaning ‘the waters of life which come into this world from the other world’ are thermal springs located near Nuhaka. Morere Springs and the surrounding area was a source of natural healing waters, kiekie and other traditional materials used for raranga whariki, kete and traditional rongoa. Tāngata whenua of the region have advised that Morere Springs have outstanding cultural and spiritual values. **</p>	<p>Delete Morere Springs. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p> <p>We remain unsure as to the landowners potentially affected.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	<p>The Morere Springs, meaning ‘the waters of life which come into this world from the other world’ are thermal springs located near Nuhaka. Morere Springs and the surrounding area was a source of natural healing waters, kiekie and other traditional materials used for raranga whariki, kete and traditional rongoa. Tāngata whenua of the region have advised that Morere Springs have outstanding cultural and spiritual values. **</p>						

<p>Ngamatea East Swamp</p>	<ul style="list-style-type: none"> Federated Farmers submits that the outstanding classification is removed from the Ngamatea Swamp, until consultation with the landowner occurs. <p>The landowners need to be directly consulted with by the Regional Council. Given that this swamp is on only one property, there is only one landowner to consult with.</p>	<p>Page 128 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 268 1184 320">Outstanding value(s)</th> <th data-bbox="1184 268 1601 320">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 320 1184 735">Cultural, spiritual, ecology (<u>habitat for native plants</u>) natural character</td> <td data-bbox="1184 320 1601 735"> <p>The Ngamatea East Swamp is a 300 hectare unmodified wetland, the largest in Hawkes Bay. The wetland contains high numbers of threatened indigenous plant species, including the sedge carex strictissima which is nationally endangered and the ranunculus recens var, which is 'at risk' and threatened.</p> <p>The Ngamatea East Swamp is highly valued for the cleansing provided by the water catchment, storage and drainage processes, and as a possible food source. Spiritual essence derives from being a headwater system to the Rangitikei River.</p> <p>Tāngata whenua of the region have advised that the Ngamatea East Swamp have outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for native plants</u>) natural character	<p>The Ngamatea East Swamp is a 300 hectare unmodified wetland, the largest in Hawkes Bay. The wetland contains high numbers of threatened indigenous plant species, including the sedge carex strictissima which is nationally endangered and the ranunculus recens var, which is 'at risk' and threatened.</p> <p>The Ngamatea East Swamp is highly valued for the cleansing provided by the water catchment, storage and drainage processes, and as a possible food source. Spiritual essence derives from being a headwater system to the Rangitikei River.</p> <p>Tāngata whenua of the region have advised that the Ngamatea East Swamp have outstanding cultural and spiritual values.**</p>	<p>Delete Ngamatea East Swamp. Federated Farmers supports the submission of Ngamatea Farming Company Ltd, which is the landowner. The landowner opposes the classification of this swamp as outstanding, and has told us no consultation occurred.</p> <p>We share the landowner's concerns that evidence for cultural and spiritual values is scant, and the ecology value comes from outdated information. This raises the question as to whether the evidence supports the outstanding classification or not.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>habitat for native plants</u>) natural character	<p>The Ngamatea East Swamp is a 300 hectare unmodified wetland, the largest in Hawkes Bay. The wetland contains high numbers of threatened indigenous plant species, including the sedge carex strictissima which is nationally endangered and the ranunculus recens var, which is 'at risk' and threatened.</p> <p>The Ngamatea East Swamp is highly valued for the cleansing provided by the water catchment, storage and drainage processes, and as a possible food source. Spiritual essence derives from being a headwater system to the Rangitikei River.</p> <p>Tāngata whenua of the region have advised that the Ngamatea East Swamp have outstanding cultural and spiritual values.**</p>						
<p>Ngaruroro River and Estuary</p>	<ul style="list-style-type: none"> Federated Farmers submits that the outstanding classification is deleted from the Ngaruroro River. <p>Given that the Ngaruroro Water Conservation Order decision was to find that the lower catchment was not outstanding, finding this entire river outstanding under PC7 is contrary to the evidence.</p>	<p>Page 131 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 1098 1263 1123">Outstanding value(s)</th> <th data-bbox="1263 1098 1601 1123">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1123 1263 1391">Cultural, spiritual, recreation (<u>angling, kayaking, rafting, jet boating</u>), ecology (<u>macroinvertebrates, habitat for aquatic birds, native fish and trout</u>), natural character, landscape, geology,</td> <td data-bbox="1263 1123 1601 1391"> <p>The Ngaruroro River is the largest river flowing across the Heretaunga Plains. The full name of the Ngaruroro River is Nga-ngaru-o-nga-upokororo-mai-i-mokotuararo-ki- Rangatira, with the river taking its name from an incident in which a dog belonging to the ancient deity Mahu startled some small fish known as upokororo. As the shoal of fish dashed away they caused ngaru or ripples in the water</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, recreation (<u>angling, kayaking, rafting, jet boating</u>), ecology (<u>macroinvertebrates, habitat for aquatic birds, native fish and trout</u>), natural character, landscape, geology,	<p>The Ngaruroro River is the largest river flowing across the Heretaunga Plains. The full name of the Ngaruroro River is Nga-ngaru-o-nga-upokororo-mai-i-mokotuararo-ki- Rangatira, with the river taking its name from an incident in which a dog belonging to the ancient deity Mahu startled some small fish known as upokororo. As the shoal of fish dashed away they caused ngaru or ripples in the water</p>	<p>Delete Ngaruroro River and Estuary. Federated Farmers strongly opposes the classification of the entire river as outstanding, when the evidence presented during the Water Conservation Order proved that values present were not outstanding in the lower river. Only the upper reaches</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, recreation (<u>angling, kayaking, rafting, jet boating</u>), ecology (<u>macroinvertebrates, habitat for aquatic birds, native fish and trout</u>), natural character, landscape, geology,	<p>The Ngaruroro River is the largest river flowing across the Heretaunga Plains. The full name of the Ngaruroro River is Nga-ngaru-o-nga-upokororo-mai-i-mokotuararo-ki- Rangatira, with the river taking its name from an incident in which a dog belonging to the ancient deity Mahu startled some small fish known as upokororo. As the shoal of fish dashed away they caused ngaru or ripples in the water</p>						

	<p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p>	<p>The Ngaruroro River flows through a variety of landscapes along its length. In its upper parts the Ngaruroro River is in a near natural state with impressive scenery flowing through indigenous forest, tussock and scrubland and spectacular narrow rocky gorges with vertical schist walls. The Ngaruroro River gorge is one of the best two gorges in Hawke's Bay. From Whanawhana, the Ngaruroro River opens to wide braided channel which is the best example in the region, and highly valued for jet boating and as a bird habitat supporting high numbers of banded dotterel and pied stilt.</p> <p>Upstream of Kuripapango, the Ngaruroro River is in excellent ecological condition, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The upper Ngaruroro River contains a high quality habitat for both native fish and salmonid trout, being largely natural with good water quality. The upper river is particularly renowned for its salmonid angling, whitewater boating opportunities and its impressive scenery.</p> <p>The lower river and estuary area support a high diversity of native birds, some of which are classified as at risk or declining or globally endangered, including the black-billed gull, black fronted tern and Australasian bittern. The Ngaruroro River supports a high diversity of fish in its lower river and estuary areas, including a number of native fish which are classified as at risk or declining. In its upper parts the Ngaruroro River contains a high quality habitat for both native fish and salmonid trout, being largely natural with good water quality.</p> <p>The Ngaruroro River is a taonga of Heretaunga Tamatea, Mana Ahuriri, and Ngāti Tūwharetoa. The headwaters are commonly expressed as being at</p>	<p>where the outstanding values are present should be classified as an OWB.</p> <p>Federated Farmers also opposes the addition of recreation values and ecology values, particularly those that evidence during the WCO process found were not outstanding. Cultural and spiritual values were found to be not outstanding, jet boating was found to not be outstanding, aquatic birds and habitat were not outstanding, native fish were not outstanding, and geology was not outstanding. Plenty of robust evidence was provided and accepted on these values, PC7 needs to accept this same evidence applies here.</p> <p>The WCO only applied to the upper river, and only rainbow trout habitat and fishery; angling amenity and recreation; whitewater kayaking and rafting amenity and recreation; and wild, scenic and natural characteristics had evidence to support their outstanding status in the upper river.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and consultation with landowners is required.</p>
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		<p>the heart of the Kaimanawa Ranges, the River forms a natural highway from coast to mountains and there are many settlements and sites of significance along its banks, including the presence of Pā, Kāinga, urupā, Wāhi Tapu, wāhi taonga and wai tapu.</p> <p>The Ngaruroro River has significance as a mahinga kai and has been a significant marker of land interests from ancient times. A pou once stood at Whanawhana which represents an important political demarcation between hapū.</p> <p>Tāngata whenua of the region have advised that the Ngaruroro River and Estuary have outstanding cultural and spiritual values.**</p>					
<p>Nuhaka River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Nuhaka River, given it only meets a single criterion. <p>The Nuhaka River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Page 143 of the Section 42a Report.</p> <table border="1" data-bbox="1016 735 1597 1011"> <thead> <tr> <th data-bbox="1016 735 1146 788">Outstanding value (s)</th> <th data-bbox="1146 735 1597 788">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 788 1146 1011">Cultural, spritual.</td> <td data-bbox="1146 788 1597 1011">The Nuhaka River is culturally significant for Te Rohe o Te Wairoa. There are numerous significant riverside sites that form the lifeblood of Rakaipaaka, including for baptism and burial. A kaitiaki, in the form of a large white flounder, protects the traditional inanga site at Papanui. Tāngata whenua of the region have advised that the Nuhaka River has outstanding cultural and spiritual values.**</td> </tr> </tbody> </table>	Outstanding value (s)	Description of outstanding values	Cultural, spritual.	The Nuhaka River is culturally significant for Te Rohe o Te Wairoa. There are numerous significant riverside sites that form the lifeblood of Rakaipaaka, including for baptism and burial. A kaitiaki, in the form of a large white flounder, protects the traditional inanga site at Papanui. Tāngata whenua of the region have advised that the Nuhaka River has outstanding cultural and spiritual values.**	<p>Delete Nuhaka River. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion. Para 1129 says the local expert panel did not find outstanding cultural/spiritual values, and no further evidence has been presented by any submitters proving there are such values.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
Outstanding value (s)	Description of outstanding values						
Cultural, spritual.	The Nuhaka River is culturally significant for Te Rohe o Te Wairoa. There are numerous significant riverside sites that form the lifeblood of Rakaipaaka, including for baptism and burial. A kaitiaki, in the form of a large white flounder, protects the traditional inanga site at Papanui. Tāngata whenua of the region have advised that the Nuhaka River has outstanding cultural and spiritual values.**						


<p>Opoutama Swamp</p>	<ul style="list-style-type: none"> Federated Farmers submits that any private landowners affected are directly notified and consulted. <p>Federated Farmers is unsure if this is located on private land.</p>	<p>Page 146 of the Section 42a Report.</p> <table border="1" data-bbox="1016 264 1601 392"> <thead> <tr> <th data-bbox="1016 264 1151 316">Outstanding value(s)</th> <th data-bbox="1151 264 1601 316">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 316 1151 392">Cultural, spiritual.</td> <td data-bbox="1151 316 1601 392">Tāngata whenua of the region have advised that Opoutama Swamp has outstanding cultural and spiritual values. **</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	Tāngata whenua of the region have advised that Opoutama Swamp has outstanding cultural and spiritual values. **	<p>Delete Opoutama Swamp. Outstanding status needs to be removed from Opoutama Swamp, seeing as it appears to not meet even a single criterion.</p> <p>There is no information on the Opoutama Swamp in the Summary of Values report. It is listed as outstanding for having cultural/spiritual values, but there is no evidence as to how this criterion is met. This is not a robust process.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	Tāngata whenua of the region have advised that Opoutama Swamp has outstanding cultural and spiritual values. **						
<p>Porangahau River and Estuary</p>	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted. Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>Private landowners will be affected and there is surrounding farming landuse, and</p>	<p>Page 148 of the Section 42a Report.</p> <table border="1" data-bbox="1016 839 1601 1385"> <thead> <tr> <th data-bbox="1016 839 1205 890">Outstanding value(s)</th> <th data-bbox="1205 839 1601 890">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 890 1205 1385">Cultural, spiritual, ecology (<u>habitat for aquatic birds, native fish and native plants</u>), landscape & geology</td> <td data-bbox="1205 890 1601 1385">The Pōrangahau River, otherwise known as the Taurekaitai River, is a taonga of Ngāti Kere. It is rich in archaeological sites, and provided the first authenticated records of moa hunter occupation in the North Island. It is a significant mahinga kai, and vast shell middens are situated in the dune systems, and pā sites occur at either end of the estuary. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihere. The Pōrangahau Estuary is the largest and least modified estuary in Hawke's Bay. The river mouth barrier system is the largest barrier system in Hawke's Bay and the surrounding dune system demonstrates a rare cross-cutting relationship of a series of en echelon sand dunes and estuarine strand lines. The Pōrangahau River and Estuary supports large population of wrybill and banded dotterel and is the only location where Caspian terns</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for aquatic birds, native fish and native plants</u>), landscape & geology	The Pōrangahau River, otherwise known as the Taurekaitai River, is a taonga of Ngāti Kere. It is rich in archaeological sites, and provided the first authenticated records of moa hunter occupation in the North Island. It is a significant mahinga kai, and vast shell middens are situated in the dune systems, and pā sites occur at either end of the estuary. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihere. The Pōrangahau Estuary is the largest and least modified estuary in Hawke's Bay. The river mouth barrier system is the largest barrier system in Hawke's Bay and the surrounding dune system demonstrates a rare cross-cutting relationship of a series of en echelon sand dunes and estuarine strand lines. The Pōrangahau River and Estuary supports large population of wrybill and banded dotterel and is the only location where Caspian terns	<p>Outstanding status should be limited to only where values are present. Federated Farmers sees that the evidence for wrybill and banded dotterel is a survey from 1992 (paragraph 1174) This information is 28 years old and should not be used as proof the estuary meets the aquatic bird habitat criterion. The purpose of outstanding waterbodies is to protect values that are present today, not values from 28 years ago. Similarly, paragraph 1179 discusses the native fish value in a Ministry of Agriculture and Fisheries publication from 1987! This information is 33 years old and should not be relied upon.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>habitat for aquatic birds, native fish and native plants</u>), landscape & geology	The Pōrangahau River, otherwise known as the Taurekaitai River, is a taonga of Ngāti Kere. It is rich in archaeological sites, and provided the first authenticated records of moa hunter occupation in the North Island. It is a significant mahinga kai, and vast shell middens are situated in the dune systems, and pā sites occur at either end of the estuary. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihere. The Pōrangahau Estuary is the largest and least modified estuary in Hawke's Bay. The river mouth barrier system is the largest barrier system in Hawke's Bay and the surrounding dune system demonstrates a rare cross-cutting relationship of a series of en echelon sand dunes and estuarine strand lines. The Pōrangahau River and Estuary supports large population of wrybill and banded dotterel and is the only location where Caspian terns						

	<p>Federated Farmers submits that they need to be directly notified and consulted with.</p>	<table border="1" data-bbox="1016 193 1594 416"> <tr> <td data-bbox="1016 193 1205 416"></td> <td data-bbox="1205 193 1594 416"> <p>and royal spoonbill nest. It is an important feeding and wintering area for migratory waders. The Pōrangahau Estuary has two main īnanga spawning sites and the only estuary in Hawke's Bay to contain the seagrass, <i>zostera muelleri</i>. Tāngata whenua of the region have advised that the Pōrangahau River and Estuary have outstanding cultural and spiritual values.**</p> </td> </tr> </table>		<p>and royal spoonbill nest. It is an important feeding and wintering area for migratory waders. The Pōrangahau Estuary has two main īnanga spawning sites and the only estuary in Hawke's Bay to contain the seagrass, <i>zostera muelleri</i>. Tāngata whenua of the region have advised that the Pōrangahau River and Estuary have outstanding cultural and spiritual values.**</p>	<p>All the values given are present in the estuary area and not the rest of the river, yet the entire river has been classified as outstanding. Federated Farmers submits that only the estuary where the outstanding values (if they are actually outstanding) are present should be classified as an outstanding waterbody. We agree with paragraphs 452 and 453 of the Section 42a Report which says “... <i>Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists.</i>”</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>		
	<p>and royal spoonbill nest. It is an important feeding and wintering area for migratory waders. The Pōrangahau Estuary has two main īnanga spawning sites and the only estuary in Hawke's Bay to contain the seagrass, <i>zostera muelleri</i>. Tāngata whenua of the region have advised that the Pōrangahau River and Estuary have outstanding cultural and spiritual values.**</p>						
<p>Putere Lakes</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Putere Lakes, given they appear to not meet any criteria. <p>Federated Farmers was unable to find much information on these lakes in the HBRC material, either we are looking in the wrong place, or there isn't much. Paragraph 395 of the Selecting a List of Waterbodies report says that poor water quality means that</p>	<p>Page 154 of the Section 42a Report.</p> <table border="1" data-bbox="1016 1058 1594 1281"> <thead> <tr> <th data-bbox="1016 1058 1167 1110">Outstanding value(s)</th> <th data-bbox="1167 1058 1594 1110">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1110 1167 1281">Cultural, spiritual</td> <td data-bbox="1167 1110 1594 1281"> <p>The Putere Lakes (Lakes Rotongaio, Lake Rotoroa and Lake Rotonuiaha) are located near the Waiau River. Historically the lakes were a significant mahinga kai. Tāngata whenua of the region have advised that the Putere Lakes have outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual	<p>The Putere Lakes (Lakes Rotongaio, Lake Rotoroa and Lake Rotonuiaha) are located near the Waiau River. Historically the lakes were a significant mahinga kai. Tāngata whenua of the region have advised that the Putere Lakes have outstanding cultural and spiritual values.**</p>	<p>Delete Putere Lakes. There is no evidence provided that prove these lakes meet the cultural/spiritual criterion.</p> <p>A recent NIWA survey found the lakes to be in poor condition and dominated by invasive weeds. These lakes are subject to a restoration project between HBRC, Ngati Pahauwera Development Trust (NPDT), landowners and Putere Marae,</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual	<p>The Putere Lakes (Lakes Rotongaio, Lake Rotoroa and Lake Rotonuiaha) are located near the Waiau River. Historically the lakes were a significant mahinga kai. Tāngata whenua of the region have advised that the Putere Lakes have outstanding cultural and spiritual values.**</p>						

	<p>native plants aren't outstanding, and we were unable to find any information in the Secondary Assessments. The Plan Change text has only brief mention of historic mahinga kai values, but we are reminded of the FAQ which says past or potential values do not count when it comes to assessing "outstandingness." This indicates that the Putere Lakes do not meet any criteria.</p>		<p>which is commendable. Given that NPDT appear to own the lakebeds, this could be a good candidate for an alternative protection method, rather than provisions in the RRMP.</p> <p>We retain our position that more than one criterion needs to be met before being classified as outstanding.</p>				
<p>Ripia River</p>	<ul style="list-style-type: none"> Farmers submits that outstanding status is deleted from the Ripia River, given it only meets a single criterion. <p>The Ripia River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The Ripia River appears to be more important as a confluence point with the Mohaka, than as a distinct waterbody with outstanding values in its own right in both the Selecting a List of Waterbodies and Secondary Assessments reports.</p>	<p>Page 156 of the Section 42a Report</p> <table border="1"> <thead> <tr> <th data-bbox="1016 592 1151 639">Outstanding value(s)</th> <th data-bbox="1151 592 1601 639">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 639 1151 1235">Cultural, spiritual.</td> <td data-bbox="1151 639 1601 1235"> <p>The Ripia River is of great significance to Hineuru, who have a particular cultural, spiritual, historical, and traditional association with the River.</p> <p>The Ripia River was utilised as a mahinga kai, rather than being a focal point of settlement, and was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Ripia River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</p> <p>The Ripia River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</p> <p><u>The Ripia River and its tributaries are recognized in the Water Conservation (Mohaka River) Order 2004 as having outstanding trout fishery characteristics and features.</u></p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	<p>The Ripia River is of great significance to Hineuru, who have a particular cultural, spiritual, historical, and traditional association with the River.</p> <p>The Ripia River was utilised as a mahinga kai, rather than being a focal point of settlement, and was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Ripia River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</p> <p>The Ripia River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</p> <p><u>The Ripia River and its tributaries are recognized in the Water Conservation (Mohaka River) Order 2004 as having outstanding trout fishery characteristics and features.</u></p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values.**</p>	<p>Federated Farmers is more accepting of the Ripia River being outstanding now that it meets two criteria, so long as the evidence is robust.</p> <p>The Section 42a Report's reasoning that the contribution a waterbody makes to the outstanding values of <i>other</i> waterbodies, does not make it an OWB in itself (para 1303 for the Ruataniwha aquifer) also applies here. Our position that the Ripia River appears to not be an OWB in its own right, remains.</p> <p>We are unsure if any farming occurs near the Ripia River.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	<p>The Ripia River is of great significance to Hineuru, who have a particular cultural, spiritual, historical, and traditional association with the River.</p> <p>The Ripia River was utilised as a mahinga kai, rather than being a focal point of settlement, and was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Ripia River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</p> <p>The Ripia River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</p> <p><u>The Ripia River and its tributaries are recognized in the Water Conservation (Mohaka River) Order 2004 as having outstanding trout fishery characteristics and features.</u></p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values.**</p>						
<p>Ruakituri River</p>	<ul style="list-style-type: none"> Federated Farmers supports the outstanding status of the Ruakituri 	<p>Page 158 of Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 1310 1205 1358">Outstanding value(s)</th> <th data-bbox="1205 1310 1601 1358">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1358 1205 1375"></td> <td data-bbox="1205 1358 1601 1375"></td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values			<p>Support outstanding status upstream of the Waitangi Falls. The outstanding values are present above the Falls:</p>
Outstanding value(s)	Description of outstanding values						

	<p>River, upstream from the Waitangi Falls in the wilderness zone.</p> <ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Ruakituri River below the wilderness zone where farming landuses are present. <p>Federated Farmers supports the outstanding status of the Ruakituri River above the Waitangi falls where it has no human modification in the wilderness zone. It meets 6 criteria (cultural and spiritual; ecology; natural character; landscape; geology, recreation) and is a good example of an exceptional waterbody because of its untouched wilderness.</p> <p>Federated Farmers asks if the outstanding values are found only upstream from the Waitangi Falls, if so we question why the entire river has been classified. Given that farming land use is present in the lower reaches.</p>	<table border="1"> <tr> <td data-bbox="1016 193 1205 767"> <p>Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling</u>).</p> </td> <td data-bbox="1205 193 1590 767"> <p>The Ruakituri River is in a natural state above Waitangi Falls, with no human modification in the surrounding area. In its upper reaches the river runs clean and clear, flowing through thick bush and rugged, remote backcountry and through a number of steep gorges, past giant limestone cliffs, and over the 72m Waitangi Falls. The Ruakituri Gorge is particularly valued by local canoeists who know it as a short but challenging run.</p> <p>The Ruakituri River is an internationally renowned trout fishery known for its crystal clear water, spectacular scenery and large population of trout which can reach trophy size. Angling on the river is restricted to fly fishing only, with the use of spinners prohibited. The river has one of the healthiest macroinvertebrate communities in Hawke's Bay.</p> <p>Tāngata whenua of the region have advised that the Ruakituri River has outstanding cultural and spiritual values.</p> <p>**</p> </td> </tr> </table>	<p>Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling</u>).</p>	<p>The Ruakituri River is in a natural state above Waitangi Falls, with no human modification in the surrounding area. In its upper reaches the river runs clean and clear, flowing through thick bush and rugged, remote backcountry and through a number of steep gorges, past giant limestone cliffs, and over the 72m Waitangi Falls. The Ruakituri Gorge is particularly valued by local canoeists who know it as a short but challenging run.</p> <p>The Ruakituri River is an internationally renowned trout fishery known for its crystal clear water, spectacular scenery and large population of trout which can reach trophy size. Angling on the river is restricted to fly fishing only, with the use of spinners prohibited. The river has one of the healthiest macroinvertebrate communities in Hawke's Bay.</p> <p>Tāngata whenua of the region have advised that the Ruakituri River has outstanding cultural and spiritual values.</p> <p>**</p>	<p>natural character and landscape (paras 1257, 1260 and 1261) recreation (para 1270). As for angling, the OWB Candidate report tells us in Table 2, page 4 that the RiVAS assessment identified the upper Ruakituri reaches as being <i>classed as a 'wilderness fishing' area, known for its impressive scenery and trout size. On average trout caught in this area weigh between 2- 3 kg, however many weighing 5 kg plus are caught each year.</i> Middle and lower reaches have smaller trout and are modified environments. The evidence supports outstanding status for in the upper reaches, but not the middle to lower.</p> <p>There is little evidence that the cultural/spiritual values are outstanding, the local expert panel found that it did not have any outstanding cultural values in paragraph 1247.</p>		
<p>Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape & geology, recreation (<u>angling</u>).</p>	<p>The Ruakituri River is in a natural state above Waitangi Falls, with no human modification in the surrounding area. In its upper reaches the river runs clean and clear, flowing through thick bush and rugged, remote backcountry and through a number of steep gorges, past giant limestone cliffs, and over the 72m Waitangi Falls. The Ruakituri Gorge is particularly valued by local canoeists who know it as a short but challenging run.</p> <p>The Ruakituri River is an internationally renowned trout fishery known for its crystal clear water, spectacular scenery and large population of trout which can reach trophy size. Angling on the river is restricted to fly fishing only, with the use of spinners prohibited. The river has one of the healthiest macroinvertebrate communities in Hawke's Bay.</p> <p>Tāngata whenua of the region have advised that the Ruakituri River has outstanding cultural and spiritual values.</p> <p>**</p>						
<p>Ruataniwha Aquifer</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Ruataniwha Aquifer given it only meets a single criterion. <p>The Ruataniwha Aquifer only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	<p>Page 164 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 1134 1173 1182">Outstanding value(s)</th> <th data-bbox="1173 1134 1590 1182">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1182 1173 1334"> <p>Cultural, spiritual, geology</p> </td> <td data-bbox="1173 1182 1590 1334"> <p>The Ruataniwha aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Ruataniwha Plains.</p> <p>The Ruataniwha aquifer system is part of Heretaunga Tamatea's traditional rohe.</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	<p>Cultural, spiritual, geology</p>	<p>The Ruataniwha aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Ruataniwha Plains.</p> <p>The Ruataniwha aquifer system is part of Heretaunga Tamatea's traditional rohe.</p>	<p>Delete Ruataniwha Aquifer. Federated Farmers agrees with the Section 42a Report where it says <i>the contribution the Ruataniwha aquifer makes to any outstanding values to other surface waterbodies does not make the aquifer system itself an OWB</i> in paragraph 1303 and we agree with the proposed</p>
Outstanding value(s)	Description of outstanding values						
<p>Cultural, spiritual, geology</p>	<p>The Ruataniwha aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Ruataniwha Plains.</p> <p>The Ruataniwha aquifer system is part of Heretaunga Tamatea's traditional rohe.</p>						

	<p>We are concerned to read in paragraph 12 of Ruatanuiwha Aquifer Secondary Assessment that <i>no direct customary linkages have been established back to the in the documents reviewed in Table 1, it is recognised that all fresh water bodies have special cultural, spiritual, historical and traditional associations with freshwater</i>. This broadens the cultural and spiritual value to cover every waterbody in the region, which makes the outstanding threshold very low.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities and needs to be recognised.</p>	<table border="1" data-bbox="1016 193 1601 268"> <tr> <td data-bbox="1016 193 1173 268"></td> <td data-bbox="1173 193 1601 268">Tāngata whenua of the region have advised that the Ruatanuiwha Aquifer has outstanding cultural and spiritual values.**</td> </tr> </table>		Tāngata whenua of the region have advised that the Ruatanuiwha Aquifer has outstanding cultural and spiritual values.**	<p>removal of geology as an outstanding value.</p> <p>This leaves the aquifer meeting only a single criterion. We retain our position that more than one criterion needs to be met before being classified as outstanding.</p> <p>There is uncertainty as to the location and extent of the aquifer.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>		
	Tāngata whenua of the region have advised that the Ruatanuiwha Aquifer has outstanding cultural and spiritual values.**						
<p>Tarawera Hot springs</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Tarawera Hot springs given it only meets a single criterion. <p>The Tarawera Hot springs only meet a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Trying to find out more of this waterbody, Federated Farmers came across this 2010 photo, which puts the outstanding status in some jeopardy! Anecdotal evidence says that the structures have been removed, but</p>	<p>Page 168 of the Section 42a Report.</p> <table border="1" data-bbox="1016 914 1601 1189"> <thead> <tr> <th data-bbox="1016 914 1173 989">Outstanding value(s)</th> <th data-bbox="1173 914 1601 989">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 989 1173 1189">Cultural, spiritual</td> <td data-bbox="1173 989 1601 1189">The Tarawera Hot Springs are located near the main highway between Napier and Taupo, set amongst indigenous native forest. The hot springs were highly prized by Ngāti Hineuru who used the hot springs for bathing, rongoa and cooking. Tāngata whenua of the region have advised that the Tarawera Hot Springs have outstanding cultural and spiritual values.**</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual	The Tarawera Hot Springs are located near the main highway between Napier and Taupo, set amongst indigenous native forest. The hot springs were highly prized by Ngāti Hineuru who used the hot springs for bathing, rongoa and cooking. Tāngata whenua of the region have advised that the Tarawera Hot Springs have outstanding cultural and spiritual values.**	<p>Neutral on Tarawera Hotsprings.</p> <p>Federated Farmers guesses that the hotsprings are located on land that is owned by Ngati Hineuru as part of the Hineuru Settlement Act 2016? In that case, the landowner needs to be consulted by the Regional Council.</p> <p>We retain our position that more than one criterion needs to be met before being classified as outstanding.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual	The Tarawera Hot Springs are located near the main highway between Napier and Taupo, set amongst indigenous native forest. The hot springs were highly prized by Ngāti Hineuru who used the hot springs for bathing, rongoa and cooking. Tāngata whenua of the region have advised that the Tarawera Hot Springs have outstanding cultural and spiritual values.**						

	<p>has the site been rehabilitated back to its natural state?</p> 						
<p>Taruarau River</p>	<ul style="list-style-type: none"> Federated Farmers submits that private landowners affected are directly notified and consulted Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>Federated Farmers is not sure about the claim that the Taruarau River has outstanding recreational values. The WCO Special Tribunal did find that the upper Ngaruroro catchment has angling, white water kayaking and rafting amenity and recreation values that are outstanding on a national basis, but do these same values apply to the Taruarau River?</p>	<p>Page 170 of the Section 42a Report.</p> <table border="1" data-bbox="1016 805 1601 1399"> <thead> <tr> <th data-bbox="1016 805 1202 858">Outstanding value(s)</th> <th data-bbox="1202 805 1601 858">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 858 1202 1399"> Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape, geology, recreation (<u>angling</u>) </td> <td data-bbox="1202 858 1601 1399"> The Taruarau River is in a near natural state with excellent water quality and one of the healthiest macroinvertebrate communities in the region. The River is very scenic, flowing through a variety of natural landscapes, from areas of rolling tussock country, scrubland and pine forests to impressive gorges with rocky overhangs. The Taruarau River gorge is “one of the best two gorges in Hawke’s Bay”. The Taruarau River is highly valued for its recreation qualities, particularly known as challenging whitewater run, suitable for experienced kayakers and rafters. The river is highly used by anglers in Hawke’s Bay, fishing well all season. The Taruarau River is located within the traditional boundary of Heretaunga Tamatea and Ngāti Tūwharetoa. The river is associated with the early origins of Kahungunu and associations with the Ruahine Range. A stone known as Te Tokatamahoutu marks the junction of the Tāruarau and Ikaweteta Streams. </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape, geology, recreation (<u>angling</u>)	The Taruarau River is in a near natural state with excellent water quality and one of the healthiest macroinvertebrate communities in the region. The River is very scenic, flowing through a variety of natural landscapes, from areas of rolling tussock country, scrubland and pine forests to impressive gorges with rocky overhangs. The Taruarau River gorge is “one of the best two gorges in Hawke’s Bay”. The Taruarau River is highly valued for its recreation qualities, particularly known as challenging whitewater run, suitable for experienced kayakers and rafters. The river is highly used by anglers in Hawke’s Bay, fishing well all season. The Taruarau River is located within the traditional boundary of Heretaunga Tamatea and Ngāti Tūwharetoa. The river is associated with the early origins of Kahungunu and associations with the Ruahine Range. A stone known as Te Tokatamahoutu marks the junction of the Tāruarau and Ikaweteta Streams.	<p>Delete the Taruarau River. Federated Farmers has identified three farms that have this river flowing through their property, and they will be directly affected.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and consultation with landowners is required.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual, ecology (<u>habitat for trout</u>), natural character, landscape, geology, recreation (<u>angling</u>)	The Taruarau River is in a near natural state with excellent water quality and one of the healthiest macroinvertebrate communities in the region. The River is very scenic, flowing through a variety of natural landscapes, from areas of rolling tussock country, scrubland and pine forests to impressive gorges with rocky overhangs. The Taruarau River gorge is “one of the best two gorges in Hawke’s Bay”. The Taruarau River is highly valued for its recreation qualities, particularly known as challenging whitewater run, suitable for experienced kayakers and rafters. The river is highly used by anglers in Hawke’s Bay, fishing well all season. The Taruarau River is located within the traditional boundary of Heretaunga Tamatea and Ngāti Tūwharetoa. The river is associated with the early origins of Kahungunu and associations with the Ruahine Range. A stone known as Te Tokatamahoutu marks the junction of the Tāruarau and Ikaweteta Streams.						

	Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.		Tāngata whenua of the region have advised that the Tararua River has outstanding cultural and spiritual values. **					
Te Hoe River	<ul style="list-style-type: none"> Farmers submits that private landowners affected are directly notified and consulted. <p>Federated Farmers supports the outstanding status of the Te Hoe River which is in a highly natural state.</p> <p>However, looking at aerial photos it appears that some land use (either forestry or farming) is occurring. In this case, Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	Page 176 of the Section 42a Report.	<table border="1"> <thead> <tr> <th>Outstanding value(s)</th> <th>Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td>Cultural, spiritual, ecology (habitat for aquatic birds), landscape</td> <td> <p>Te Hoe River is in a highly natural state and is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>Te Hoe River is a taonga of Ngāti Hineuru, and has a number of significant sites are located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka Rivers. The river is a traditional boundary marker.</p> <p>Te Hoe River provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were gathered from this river, and it has abundance of tuna (eel), trout and koura.</p> <p><u>The Te Hoe gorge is recognized in the Water Conservation (Mohaka River) Order 2004 as an outstanding scenic characteristic and feature.</u></p> <p>Tāngata whenua of the region have advised that Te Hoe River has outstanding cultural and spiritual values. **</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (habitat for aquatic birds), landscape	<p>Te Hoe River is in a highly natural state and is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>Te Hoe River is a taonga of Ngāti Hineuru, and has a number of significant sites are located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka Rivers. The river is a traditional boundary marker.</p> <p>Te Hoe River provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were gathered from this river, and it has abundance of tuna (eel), trout and koura.</p> <p><u>The Te Hoe gorge is recognized in the Water Conservation (Mohaka River) Order 2004 as an outstanding scenic characteristic and feature.</u></p> <p>Tāngata whenua of the region have advised that Te Hoe River has outstanding cultural and spiritual values. **</p>	Neutral on the Te Hoe River. Federated Farmers guesses that the Te Hoe River is located on land that is owned by Ngati Hineuru as part of the Hineuru Settlement Act 2016? In that case, the landowner needs to be consulted by the Regional Council. This river looks to already be protected by the Mohaka WCO and possibly the Hineuru Settlement Act 2016, no further RRMP regulations are needed.
Outstanding value(s)	Description of outstanding values							
Cultural, spiritual, ecology (habitat for aquatic birds), landscape	<p>Te Hoe River is in a highly natural state and is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>Te Hoe River is a taonga of Ngāti Hineuru, and has a number of significant sites are located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka Rivers. The river is a traditional boundary marker.</p> <p>Te Hoe River provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were gathered from this river, and it has abundance of tuna (eel), trout and koura.</p> <p><u>The Te Hoe gorge is recognized in the Water Conservation (Mohaka River) Order 2004 as an outstanding scenic characteristic and feature.</u></p> <p>Tāngata whenua of the region have advised that Te Hoe River has outstanding cultural and spiritual values. **</p>							
Te Paerahi River	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Te Paerahi River given it only meets a single criterion. <p>Te Paerahi River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	Page 180 of the Section 42a Report.	<table border="1"> <thead> <tr> <th>Outstanding value(s)</th> <th>Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td>Cultural, spiritual</td> <td> <p>Te Paerahi River is located near the Porangahau Estuary, and is a taonga of Ngāti Kere.</p> <p>Tāngata whenua of the region have advised that Te Paerahi River has outstanding cultural and spiritual values. **</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual	<p>Te Paerahi River is located near the Porangahau Estuary, and is a taonga of Ngāti Kere.</p> <p>Tāngata whenua of the region have advised that Te Paerahi River has outstanding cultural and spiritual values. **</p>	Delete Te Paerahi River. There is no evidence to support the cultural/spiritual values being outstanding. Para 14411 of the Section 42a Report says <i>no information on the cultural and spiritual values was found during Phase 1</i> para 1412 says <i>Te Paerahi River was not one of the waterbodies nominated for assessment by the local expert panel and</i>
Outstanding value(s)	Description of outstanding values							
Cultural, spiritual	<p>Te Paerahi River is located near the Porangahau Estuary, and is a taonga of Ngāti Kere.</p> <p>Tāngata whenua of the region have advised that Te Paerahi River has outstanding cultural and spiritual values. **</p>							

	<p>Federated Farmers was unable to find any information on this river in neither the Selecting a List of Outstanding Waterbodies nor in the Secondary Assessments reports.</p>		<p>para 1413 <i>no further information has been received describing the outstanding cultural and spiritual values.</i> No assessment work has been undertaken as to whether outstanding values are present or not, and yet it has been included into Schedule 25. This is not a robust assessment process and undermines confidence in the whole process.</p>				
<p>Te Whanganui a Orotu (Ahuriri Estuary)</p>	<ul style="list-style-type: none"> Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>The water and land use of this catchment is important to the social and economic wellbeing of people and communities.</p>	<p>Page 182 of the Section 42a Report.</p> <table border="1" data-bbox="1016 628 1601 1391"> <thead> <tr> <th data-bbox="1016 628 1189 679">Outstanding value(s)</th> <th data-bbox="1189 628 1601 679">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 679 1189 1391"> <p>Cultural, spiritual, ecology (<u>habitat for aquatic birds and native fish</u>), landscape, geology</p> </td> <td data-bbox="1189 679 1601 1391"> <p>Te Whanganui a Orotū (Ahuriri Estuary) is a significant wetland along the east coast of New Zealand, with high cultural and ecological value. It provides a wide diversity of habitat and an extremely diverse range of ecological communities, all contained within a relatively small area.</p> <p>Historically, the Tutaekurī and Esk Rivers flowed into Te Whanganui a Orotū which was predominately freshwater and significantly larger in size. In 1931, the Napier earthquake lifted the land by up to two metres and exposed around 1300 hectares of original lagoon. The estuary's unique geological history makes it a nationally important example of tectonic processes.</p> <p>Te Whanganui a Orotū has very important wildlife values, particularly as a feeding and resting area for over 70 species of water birds, some of which are critically endangered and some which migrate every year from the Artic. It supports the highest diversity of birds in the region.</p> <p>The Estuary has very important native fish values, providing a diverse habitat and is recognised as the most important estuary in the region for fisheries production. It supports the highest diversity of native fish in the region.</p> <p>Te Whanganui-a-Orotū is a place of great cultural and spiritual significance to the Ahuriri Hapū. It is central to their existence and identity. It is named</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	<p>Cultural, spiritual, ecology (<u>habitat for aquatic birds and native fish</u>), landscape, geology</p>	<p>Te Whanganui a Orotū (Ahuriri Estuary) is a significant wetland along the east coast of New Zealand, with high cultural and ecological value. It provides a wide diversity of habitat and an extremely diverse range of ecological communities, all contained within a relatively small area.</p> <p>Historically, the Tutaekurī and Esk Rivers flowed into Te Whanganui a Orotū which was predominately freshwater and significantly larger in size. In 1931, the Napier earthquake lifted the land by up to two metres and exposed around 1300 hectares of original lagoon. The estuary's unique geological history makes it a nationally important example of tectonic processes.</p> <p>Te Whanganui a Orotū has very important wildlife values, particularly as a feeding and resting area for over 70 species of water birds, some of which are critically endangered and some which migrate every year from the Artic. It supports the highest diversity of birds in the region.</p> <p>The Estuary has very important native fish values, providing a diverse habitat and is recognised as the most important estuary in the region for fisheries production. It supports the highest diversity of native fish in the region.</p> <p>Te Whanganui-a-Orotū is a place of great cultural and spiritual significance to the Ahuriri Hapū. It is central to their existence and identity. It is named</p>	<p>Support in Part the Ahuriri Estuary. The number of criteria the estuary meets means that Federated Farmers accepts the outstanding status, so long as the evidence for each value is strong and up to date.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
Outstanding value(s)	Description of outstanding values						
<p>Cultural, spiritual, ecology (<u>habitat for aquatic birds and native fish</u>), landscape, geology</p>	<p>Te Whanganui a Orotū (Ahuriri Estuary) is a significant wetland along the east coast of New Zealand, with high cultural and ecological value. It provides a wide diversity of habitat and an extremely diverse range of ecological communities, all contained within a relatively small area.</p> <p>Historically, the Tutaekurī and Esk Rivers flowed into Te Whanganui a Orotū which was predominately freshwater and significantly larger in size. In 1931, the Napier earthquake lifted the land by up to two metres and exposed around 1300 hectares of original lagoon. The estuary's unique geological history makes it a nationally important example of tectonic processes.</p> <p>Te Whanganui a Orotū has very important wildlife values, particularly as a feeding and resting area for over 70 species of water birds, some of which are critically endangered and some which migrate every year from the Artic. It supports the highest diversity of birds in the region.</p> <p>The Estuary has very important native fish values, providing a diverse habitat and is recognised as the most important estuary in the region for fisheries production. It supports the highest diversity of native fish in the region.</p> <p>Te Whanganui-a-Orotū is a place of great cultural and spiritual significance to the Ahuriri Hapū. It is central to their existence and identity. It is named</p>						

			<p>after the ancestor Te Orotū, who was a descendant of the great explorer and ancestor Māhu Tapoanui, who is the very beginning of the Ahuriri people. Ngāti Pāhauwera and Maungaharuru –Tangitū also have customary linkages to Te Whanganui-ā-Orotu. Moremore is the kaitiaki of Te Whanganui-a- Orotū, and known as the guardian of the people occupying the shores of Te Whanganui-a-Orotū who are his descendants. The appearance of Moremore warned people of dangers and reinforced the customs practiced by the old people. The law of Moremore was always observed.</p> <p>The area around Te Whanganui-a-Orotū was a very important source of food and was heavily populated and the site of a number of significant battles. Consequently, numerous sites of cultural, historic and archaeological significance are situated around what was its shoreline.</p> <p>From the earliest of times it was highly prized for its enormous food resources and its access to major river systems and forest areas. It was known as 'a place of abundance'. Archaeological evidence confirms that Te Whanganui-a-Orotū was an important place to live. Excavations indicate settlement dates between the late fifteenth and early seventeenth centuries, with very early settlement on Roro o Kuri - somewhere between the twelfth and thirteenth centuries. Surrounding the harbour are 11 recorded pā, some extensive in size. Extensive middens exist in this area.</p> <p>The pā at Te Pakake was a communal gathering place in times of trouble. Ngāti Hinepare, Ngāti Mahu, Ngāti Parau, Ngāti Hawea and Ngāti Kurumokihi are all recorded as having occupied the pā when under threat of invasion.</p> <p>Pukemokimoki was a fortified pā, with a canoe landing place near, located at south-western end of Mataruahou (Napier Hill).</p> <p>Tāngata whenua of the region have advised that Te Whanganui-a-Orotū (Ahuriri Estuary) has outstanding cultural and spiritual values. **</p>	

<p>Tukituki River and Estuary</p>	<ul style="list-style-type: none"> Federated Farmers submits that only the part of the river which has the values present, should be classified as outstanding, rather than the entire river. Federated Farmers submits that water and land use for farming is recognised as an outstanding value. The outstanding values seem to be only found in particular areas of the Tukituki River, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river. <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities, and needs to be recognised.</p>	<p>Page 188 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1014 268 1182 320">Outstanding value(s)</th> <th data-bbox="1182 268 1599 320">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1014 320 1182 1350"> Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>), landscape & geology </td> <td data-bbox="1182 320 1599 1350"> <p>The Tukituki River and Estuary area is a large, 145 km long braided river system in central Hawke's Bay. It is a tupuna awa (ancestral river) and has significant cultural values. Legend tells of how the Tukituki River came into existence. Two taniwha lived in a large lake situated on what is now the Ruataniwha Plains. They fought for possession of a boy who accidentally fell into the lake and their struggles formed the Waipawa and Tukituki Rivers which drained the lake.</p> <p>The Tukituki River is part of an iconic Hawke's Bay landscape where it passes by Te Mata Peak. The Tukituki River has significant wildlife values with a high diversity of native birds. The Lower Tukituki River and Estuary area supports the largest population of wading birds in Hawke's Bay, and has significant regional populations of black fronted tern, banded dotterel and pied stilt. The Tukituki River is a toanga of Heretaunga Tamatea. There is evidence of at least 7-8 centuries of occupation by Maori, making this area one of the earliest settled. The river was traditionally the main transport route through Heretaunga. Historically, the Tukituki catchment had an abundance of mahinga kai and natural resources. In particular, the river mouth and estuary was renowned for the abundance of fish species. The estuary area continues to support important traditional fisheries.</p> <p>On the lower section of river, there are a number of sites that relate to the actions of the ancient tipuna, Māhu. On the north bank is a white rock, Papaotihi. It is said the rock was once a man who was fishing in the river, but he was turned to stone by Māhu. A little further on is another rock, Tauhou, where Māhu turned another man to stone. Down river near Te Kauhanga pā is another spot touched by Māhu. Here he put a curse on the paepae and people died. 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		<p>After the arrival of the Ngāti Kahungunu tipuna to Heretaunga, the Tukituki River was established as the first boundary between Taraia and Te Aomatarahi.</p> <p>Tāngata whenua of the region have advised that the Tukituki River and Estuary has outstanding cultural and spiritual values. **</p>					
Tutaekuri River	<ul style="list-style-type: none"> Federated Farmers submits that only the part of the river which has the values present, should be classified as outstanding, rather than the entire river. <p>The outstanding values seem to be only found in the upper reaches which is in a near-pristine state, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities.</p> <p>We are relieved to see the recognition of primary production water use, but given so much primary production occurs here it needs to be an outstanding value, and also needs to be extended to recognise primary production land use.</p>	<p>Page 196 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1019 467 1218 520">Outstanding value(s)</th> <th data-bbox="1218 467 1601 520">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1019 520 1218 1377">Cultural, spiritual, ecology (macroinvertebrates)</td> <td data-bbox="1218 520 1601 1377"> <p>Ahuriri Hapū have a strong cultural association with the Tūtaekurī River, with the lower reach of the Tūtaekurī River traditionally utilised by Ngati Pārau. Otatara Pā is wāhi tapu as an ancient pā and as an urupā. It held a prominent position over the river and is 'the guardian of all people who live in its shadow'. A site at Te Whare O Maraenui, located on the eastern bank of the Tūtaekurī River, contains an urupā of those who died during the battle at Te Pakake Pā.</p> <p>Heretaunga Tamatea, Ngāti Pāhauwera and Maungaharuru –Tangitū also have cultural association with the river, with the river once providing a major transport route into Mokai Patea (Taihape) and beyond. The Tūtaekurī River forms part of the rohe boundary between Heretaunga and Ahuriri.</p> <p>The Tūtaekurī River takes its name from an incident that occurred when Hikawera came to the aid of a starving party of travellers. He ordered many dogs, fish and kumara to be prepared to feed the hungry wanderers. The place where this occurred became known as Te Umukuri. The dog's offal was thrown into the river to replenish what was taken, hence the name Tūtaekurī.</p> <p>The Tūtaekurī River once was a significant mahinga kai providing much of the food supply for the local hapū. Otatara Pā was a major intersection between Heretaunga & Ahuriri and it permitted access to eel weirs, fern root groves and kumara plantations in the hinterland. It also allowed access to Te</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (macroinvertebrates)	<p>Ahuriri Hapū have a strong cultural association with the Tūtaekurī River, with the lower reach of the Tūtaekurī River traditionally utilised by Ngati Pārau. Otatara Pā is wāhi tapu as an ancient pā and as an urupā. It held a prominent position over the river and is 'the guardian of all people who live in its shadow'. A site at Te Whare O Maraenui, located on the eastern bank of the Tūtaekurī River, contains an urupā of those who died during the battle at Te Pakake Pā.</p> <p>Heretaunga Tamatea, Ngāti Pāhauwera and Maungaharuru –Tangitū also have cultural association with the river, with the river once providing a major transport route into Mokai Patea (Taihape) and beyond. The Tūtaekurī River forms part of the rohe boundary between Heretaunga and Ahuriri.</p> <p>The Tūtaekurī River takes its name from an incident that occurred when Hikawera came to the aid of a starving party of travellers. He ordered many dogs, fish and kumara to be prepared to feed the hungry wanderers. The place where this occurred became known as Te Umukuri. The dog's offal was thrown into the river to replenish what was taken, hence the name Tūtaekurī.</p> <p>The Tūtaekurī River once was a significant mahinga kai providing much of the food supply for the local hapū. Otatara Pā was a major intersection between Heretaunga & Ahuriri and it permitted access to eel weirs, fern root groves and kumara plantations in the hinterland. It also allowed access to Te</p>	<p>Outstanding status of the Tutaekuri River should be limited to only where values are present. We agree with paragraphs 452 and 453 of the Section 42a Report which says “... <i>Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists.</i>”</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
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		<p>Whanganui a Orotū. The upper reaches of the Tūtaekuri River are in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values.**</p>					
<p>Waiau River</p>	<ul style="list-style-type: none"> Federated Farmers submits that only the part of the river which has the values present, should be classified as outstanding, rather than the entire river. Federated Farmers submits that water and land use for farming is recognised as an outstanding value. <p>Paragraph 221 of the Selecting a List report notes that this river is in a near natural state, however it appears that there is some primary production land use looking at aerial photographs. The outstanding values seem to be only found in the upper reaches which is in a near-pristine state, in that case, only the part of the river which has the outstanding values present should be classified, rather than the entire river.</p> <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with.</p>	<p>Page 197 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 491 1200 544">Outstanding value(s)</th> <th data-bbox="1200 491 1601 544">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 544 1200 1059">Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)</td> <td data-bbox="1200 544 1601 1059"> <p>The Waiau River is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>The Waiau River is culturally and spiritually significant for Te Rohe o Te Wairoa, Ngāti Pāhauwera and Ngāti Ruapuni ki Waikaremoana. The river forms part of the traditional boundary of Ngāti Pāhauwera. The river adjoins a wāhi tapu site which is significant as being the place where Tamaterangi collected hangi stones after his defeat at Opuku.</p> <p>The river provides a valuable source of water, food, transport and trade. It was particularly significant as a transport route from Waikaremoana to Te Moananui a Kiwa (the Pacific Ocean)</p> <p>Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology (<u>habitat for aquatic birds</u>)	<p>The Waiau River is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>The Waiau River is culturally and spiritually significant for Te Rohe o Te Wairoa, Ngāti Pāhauwera and Ngāti Ruapuni ki Waikaremoana. The river forms part of the traditional boundary of Ngāti Pāhauwera. The river adjoins a wāhi tapu site which is significant as being the place where Tamaterangi collected hangi stones after his defeat at Opuku.</p> <p>The river provides a valuable source of water, food, transport and trade. It was particularly significant as a transport route from Waikaremoana to Te Moananui a Kiwa (the Pacific Ocean)</p> <p>Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values.**</p>	<p>Outstanding status of the Waiau River should be limited in the upper reaches where values are present. We agree with paragraphs 452 and 453 of the Section 42a Report which says “... <i>Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists.</i>” The values contributing to the assessment of outstanding, relate to ecological values and habitat for the whio and are limited to above the Matuku Stream.</p>
Outstanding value(s)	Description of outstanding values						
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<p>Waihua River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Waihua River given it only meets a single criterion. <p>The Waihua River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>Private landowners will be affected and there is surrounding farming landuse, and Federated Farmers submits that they need to be directly notified and consulted with</p>	<p>Page 200 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 268 1146 320">Outstanding value(s)</th> <th data-bbox="1146 268 1601 320">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 320 1146 491">Cultural, spiritual.</td> <td data-bbox="1146 320 1601 491">The Waihua River was a traditional boundary, important both culturally and commercially, including for mahinga kai, with important fishing and eeling spots, as well as shellfish beds. Tāngata whenua of the region have advised that the Waihua River has outstanding cultural and spiritual values.**</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	The Waihua River was a traditional boundary, important both culturally and commercially, including for mahinga kai, with important fishing and eeling spots, as well as shellfish beds. Tāngata whenua of the region have advised that the Waihua River has outstanding cultural and spiritual values.**	<p>Delete Waihua River. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p> <p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
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<p>Waikaretaheke River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Waikaretaheke River given it only meets a single criterion. <p>The Waikaretaheke River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p>	<p>Page 202 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 774 1146 826">Outstanding value(s)</th> <th data-bbox="1146 774 1601 826">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 826 1146 1145">Cultural, spiritual.</td> <td data-bbox="1146 826 1601 1145">The Waikaretaheke River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The creation story for the river is linked with the taniwha, Haumapuhia, and the creation of Lake Waikaremoana. Traditionally, this river was an important source of tuna (eels), korokoro and inanga (whitebait), and was also used for transportation by Ngāti Kahungunu. Tāngata whenua of the region have advised that the Waikaretaheke River has outstanding cultural and spiritual values.**</td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	The Waikaretaheke River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The creation story for the river is linked with the taniwha, Haumapuhia, and the creation of Lake Waikaremoana. Traditionally, this river was an important source of tuna (eels), korokoro and inanga (whitebait), and was also used for transportation by Ngāti Kahungunu. Tāngata whenua of the region have advised that the Waikaretaheke River has outstanding cultural and spiritual values.**	<p>Delete Waikaretaheke River. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p> <p>The values appear to be associated with its connection to Lake Waikaremoana, rather than as an OWB in its own right.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	The Waikaretaheke River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The creation story for the river is linked with the taniwha, Haumapuhia, and the creation of Lake Waikaremoana. Traditionally, this river was an important source of tuna (eels), korokoro and inanga (whitebait), and was also used for transportation by Ngāti Kahungunu. Tāngata whenua of the region have advised that the Waikaretaheke River has outstanding cultural and spiritual values.**						
<p>Waipawa River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Waipawa River given it only meets a single criterion. 	<p>Page 204 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 1225 1146 1278">Outstanding Value(s)</th> <th data-bbox="1146 1225 1601 1278">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 1278 1146 1396">Cultural, spiritual.</td> <td data-bbox="1146 1278 1601 1396">The Waipawa River is culturally significant for Heretaunga Tamatea. The river was a significant mahinga kai particularly known for its tuna, pātiki, fresh water koura, water cress and inanga. Historically, the river provided access inland to the resources of the</td> </tr> </tbody> </table>	Outstanding Value(s)	Description of outstanding values	Cultural, spiritual.	The Waipawa River is culturally significant for Heretaunga Tamatea. The river was a significant mahinga kai particularly known for its tuna, pātiki, fresh water koura, water cress and inanga. Historically, the river provided access inland to the resources of the	<p>Delete Waipawa River. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p>
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	<p>The Waipawa River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities, and needs to be recognised.</p>	<p>Ruahine ranges, and later a trading post was set up on the river, with boats travelling up and down from the Tukituki River mouth. The River was significant as a boundary marker.</p> <p>Legend tells how the Waipawa River came into existence. A large lake was located in what is now the Ruataniwha Plains, which was home to two taniwha. On one occasion a boy fell into the lake and the two taniwha fought over their prey. The resulting destruction on the landscape created breaks in the hills through which the lake drained away. One of the channels through which the lake drained was the Waipawa River.</p> <p>A number of archaeological sites indicating the presence of pā and kāinga have been recorded in the area. Near the headwaters was Motu-o-Puku pā which belonged to the descendants of Te Rangitekahutia and the descendants of Te Upokoiri.</p> <p>Tāngata whenua of the region have advised that the Waipawa River has outstanding cultural and spiritual values. **</p>	<p>We retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>				
<p>Waipunga River</p>	<ul style="list-style-type: none"> Federated Farmers supports the outstanding status of the Waipunga River which is in a near natural state. <p>The Waipunga River is in a near-natural state and meets two criteria, and Federated Farmers supports its classification as outstanding.</p>	<p>Page 207 of the Section 42a Report.</p> <table border="1" data-bbox="1016 842 1601 1378"> <thead> <tr> <th data-bbox="1016 842 1160 895">Outstanding value(s)</th> <th data-bbox="1160 842 1601 895">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 895 1160 1378">Cultural, spiritual, ecology</td> <td data-bbox="1160 895 1601 1378"> <p>The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. <u>Ngati Hineuru</u> has a particular cultural, spiritual, historical, and traditional association with Waipunga River.</p> <p>The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.</p> <p><u>Ngati Hineuru</u> had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.</p> <p>The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Waipunga River was very dense and provided many important resources</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual, ecology	<p>The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. <u>Ngati Hineuru</u> has a particular cultural, spiritual, historical, and traditional association with Waipunga River.</p> <p>The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.</p> <p><u>Ngati Hineuru</u> had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.</p> <p>The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Waipunga River was very dense and provided many important resources</p>	<p>Neutral on Waipunga River. Federated Farmers initially supported the classification of the Waipunga River as an OWB given that it met two criteria. We do not think any farms are nearby.</p> <p>However it appears that the evidence leads the Section 42a Report to find the ecology value not to be outstanding in Table 113, para 1638. This leaves only the single cultural/spiritual criterion, and Federated Farmers is opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p>
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Cultural, spiritual, ecology	<p>The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. <u>Ngati Hineuru</u> has a particular cultural, spiritual, historical, and traditional association with Waipunga River.</p> <p>The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.</p> <p><u>Ngati Hineuru</u> had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.</p> <p>The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Waipunga River was very dense and provided many important resources</p>						

		<p>including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes. The Waipunga River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process Tāngata whenua of the region have advised that the Waipunga River has outstanding cultural and spiritual values.**</p>					
<p>Wairoa River</p>	<ul style="list-style-type: none"> Federated Farmers submits that outstanding status is deleted from the Wairoa River given it only meets a single criterion. <p>The Wairoa River only meets a single criterion. More than one criterion should be met before a waterbody is found to be outstanding.</p> <p>The water and land use of this catchment, particularly farming, is of vital importance to the social and economic wellbeing of people and communities, and needs to be recognised.</p>	<p>Page 210 of the Section 42a Report.</p> <table border="1"> <thead> <tr> <th data-bbox="1016 592 1155 639">Outstanding value(s)</th> <th data-bbox="1155 592 1603 624">Description of outstanding values</th> </tr> </thead> <tbody> <tr> <td data-bbox="1016 639 1155 1279">Cultural, spiritual.</td> <td data-bbox="1155 639 1603 1279"> <p>The Wairoa River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The river is regarded as tapu. It is bound by rituals and traditions, which stem from gods and belongs to their ancestors. The water of the Wairoa River was used for purification, ancient chants and prayers. The river was also a major avenue for trading and commerce with a number of pā close by. Several important pā sites are located along and at the mouth of the river including Rangihoua/Pilot Hill which is sacred to tāngata whenua.</p> <p>It is said that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream. Te Reinga Falls, the starting point of the river, is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka. The river mouth is also associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.</p> <p>The river and estuary area was an important mahinga kai, providing inanga, mohoao, kanae, tuna, kākahi and koura.</p> <p>Tāngata whenua of the region have advised that the Wairoa River has outstanding cultural and spiritual values.**</p> </td> </tr> </tbody> </table>	Outstanding value(s)	Description of outstanding values	Cultural, spiritual.	<p>The Wairoa River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The river is regarded as tapu. It is bound by rituals and traditions, which stem from gods and belongs to their ancestors. The water of the Wairoa River was used for purification, ancient chants and prayers. The river was also a major avenue for trading and commerce with a number of pā close by. Several important pā sites are located along and at the mouth of the river including Rangihoua/Pilot Hill which is sacred to tāngata whenua.</p> <p>It is said that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream. Te Reinga Falls, the starting point of the river, is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka. The river mouth is also associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.</p> <p>The river and estuary area was an important mahinga kai, providing inanga, mohoao, kanae, tuna, kākahi and koura.</p> <p>Tāngata whenua of the region have advised that the Wairoa River has outstanding cultural and spiritual values.**</p>	<p>Delete Wairoa River. Federated Farmers remains opposed to a waterbody being classified as outstanding after meeting only a single criterion, instead two or more criteria should be met.</p> <p>Given there is a lot of farming around Wairoa, we retain our position that existing farming land and water use needs to be recognised and provided for, and that consultation with landowners is required.</p>
Outstanding value(s)	Description of outstanding values						
Cultural, spiritual.	<p>The Wairoa River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The river is regarded as tapu. It is bound by rituals and traditions, which stem from gods and belongs to their ancestors. The water of the Wairoa River was used for purification, ancient chants and prayers. The river was also a major avenue for trading and commerce with a number of pā close by. Several important pā sites are located along and at the mouth of the river including Rangihoua/Pilot Hill which is sacred to tāngata whenua.</p> <p>It is said that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream. Te Reinga Falls, the starting point of the river, is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka. The river mouth is also associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.</p> <p>The river and estuary area was an important mahinga kai, providing inanga, mohoao, kanae, tuna, kākahi and koura.</p> <p>Tāngata whenua of the region have advised that the Wairoa River has outstanding cultural and spiritual values.**</p>						

BEFORE THE HEARING COMMISSIONERS

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Proposed Plan Change 7 to the Hawke's Bay
Regional Resource Management Plan

**STATEMENT OF EVIDENCE OF DR PHILIP HUNTER MITCHELL ON
BEHALF OF GENESIS ENERGY LIMITED**

13 November 2020

EXECUTIVE SUMMARY

1. This statement of planning evidence has been prepared at the request of Genesis Energy Limited (“**Genesis**”)
2. As outlined in the evidence of Mr Gareth Gray, the key issue of concern to Genesis in respect of Plan Change 7 (“**PC7**”) to the Hawke’s Bay Regional Resource Management Plan relates to the identification of Lake Waikaremoana and the Waikaretaheke River as outstanding waterbodies without appropriately providing for the continued existence of the Waikaremoana Power Scheme.
3. I consider that there are six key issues with PC7:
 - (a) Although superseded by the National Policy Statement for Freshwater Management 2020, the list of outstanding values referred to in the definition of an “outstanding waterbody” in the National Policy Statement for Freshwater Management 2017 (which was operative at the time PC7 was notified) was not exhaustive. In contrast, the National Policy Statement for Freshwater Management 2020 does not now specify what constitutes an outstanding value and provides no lists of these – exhaustive or otherwise. In my opinion, the National Policy Statement for Freshwater Management 2020 anticipates that the outstanding values are to be assessed on a case by case basis, and when doing so, there is nothing that precludes economic, consumptive or renewable electricity uses from being considered as outstanding values.
 - (b) The National Policy Statement for Freshwater Management 2020 does not distinguish or create a hierarchy between “outstanding” and “significant” values. Rather, the provisions require the protection of the significant values of an outstanding waterbody. More fundamentally, in many cases PC7 does not identify the significant values of the proposed “outstanding” freshwater bodies and instead proposes that be developed in a separate,

and subsequent, planning process or processes. In my view, it is inappropriate to define these waterbodies as being outstanding, while relying on subsequent plan change processes to “fill in the detail”

- (c) PC7 has not considered the National Policy Statement for Renewable Electricity Generation 2011, which states that renewable electricity generation is a matter of national significance and the operation, maintenance and development of renewable electricity generation infrastructure must be recognised and provided for. I therefore do not consider that PC7 gives effect to the National Policy Statement for Renewable Electricity Generation 2011.
- (d) Renewable electricity generation is a key part of New Zealand’s transition to a low carbon economy. The Government has agreed a framework that drives climate change policy towards low greenhouse gas emissions and climate resilience in New Zealand. This framework supports New Zealand’s international commitments under the Paris Agreement, including the target of reducing emissions by 11% below 1990 levels by 2030. By 2050, the aim is to reduce New Zealand’s greenhouse gas emissions to net zero. If New Zealand’s economy is to be successfully decarbonised, it seems logical to me that:
 - i. The current output of renewable electricity generation should be protected and enhanced; and
 - ii. Transforming New Zealand’s energy economy in this way will require a significant new volume – by some estimates a doubling of current levels – of renewable electricity generation by 2050.

Irrespective, providing for and protecting the continued operation, maintenance and enhancement of New Zealand’s existing hydro schemes, including the Waikaremoana Power Scheme, will be a key component in achieving greenhouse gas emission reduction targets.

- (e) “Outstanding” at the national level is well settled from Water Conservation Order processes as meaning the “best of the best on a (national) comparative basis”. I would have anticipated that when considering this same issue at a regional scale, as PC7 is attempting to do, that same “best of the best” principle would apply, but at the regional scale. As a result, I find it difficult to understand how the Hawke’s Bay Regional Council can justify 38 waterbodies being “outstanding”. In particular, I am not aware of any information provided by the Hawke’s Bay Regional Council to justify the Waikaretaheke River being classified as outstanding; and
 - (f) There is no reason I am aware of why the Waikaremoana hydro-resource cannot be classified as an outstanding value, given that Lake Waikaremoana, the Waikaretaheke River and the Waikaremoana Power Scheme have co-existed for some 90 years, with the end result being that the values of those waterways and the hydro-resource have become inexorably intertwined.
4. To give effect to the National Policy Statement for Renewable Electricity Generation 2011, it is my opinion that PC7 should be modified to include hydro-electricity generation from the Waikaremoana Power Scheme as an outstanding value of Lake Waikaremoana and, if the Waikaretaheke River is determined to be outstanding, its hydro-electricity generation values are similarly recognised.

INTRODUCTION

Qualifications and experience

5. I hold the degrees of Bachelor of Engineering (Hons) and Doctor of Philosophy, both from the University of Canterbury.
6. I am employed by Mitchell Daysh Limited, an environmental consulting practice with five offices around New Zealand that I cofounded in 2016. Previously I was a Director of Mitchell Partnerships Limited, an environmental consultancy I established in 1997, and which was merged with Environmental Management Services to form Mitchell Daysh Limited. Prior to that, I was the Managing Director of Kingett Mitchell & Associates Limited, a firm that I co-founded in 1987.
7. I am a past president and founding executive committee member of the Resource Management Law Association, a full member of the New Zealand Planning Institute and in 2015 was a recipient of the New Zealand Planning Institute's Distinguished Service Award.
8. I have practised in the field of resource management for the past 34 years during which time I have had a lead resource management role in many significant projects throughout New Zealand. Such projects include number of hydro-electricity developments, including consent applications associated with the Waikaremoana Power Scheme, Tongariro Power Scheme and the Tekapo Power Scheme.
9. I have acted on several Ministerial advisory panels established to review aspects of the Resource Management Act 1991 ("**RMA**") and was a member of the Technical Advisory Group established to review sections 6 and 7 of the RMA.
10. My principal areas of practice are: providing resource management advice to the private and public sectors; facilitating public consultation processes;

undertaking planning analyses; managing resource consent acquisition projects; and developing resource consent conditions.

11. I have acted as a Hearings Commissioner on some 60 occasions, many in the role of Hearing Chair. In that regard, I am currently chairing the hearing of submissions on the proposed Waikato District Plan.
12. Previously, I was appointed jointly by the Minister for Canterbury Earthquake Recovery and the Christchurch City Council as a Hearings Commissioner for the replacement of the Christchurch City District Plan (the district plan that is intended to facilitate the rebuilding of Christchurch).
13. I have prepared this statement of evidence in my capacity as an expert and acknowledge that I have read and understand the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note dated 1 December 2014. I have complied with it when preparing my statement of evidence, and I agree to comply with it when I give any oral evidence. Other than where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Involvement in the process

14. I was engaged in June 2019 by Genesis Energy Limited (trading as “**Genesis**”) to provide planning advice in respect of Proposed Plan Change 7 (“**PC7**”) to the Hawke’s Bay Regional Resource Management Plan (“**RRMP**”).
15. I have prepared this statement of evidence at the request of Genesis.
16. In preparing this evidence I have reviewed Genesis’ current resource consents and the evidence prepared by Genesis’ other witnesses, as well as the following:
 - (a) Genesis’ Primary Submission on PC7, dated 28 February 2020;
 - (b) Genesis’ Further Submissions on PC7, dated 10 September 2020;

- (c) Section 32 Evaluation Report for Plan Change 7 (“**section 32 report**”);
- (d) Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay report, dated 14 March 2018;
- (e) Outstanding Water Bodies in Hawke's Bay: Report of the Expert Panel, dated April 2019;
- (f) Lake Waikaremoana Summary of Values report, dated August 2010;
- (g) Waikaretaheke River Summary of Values report, dated August 2020;
- (h) Water Conservation Order Review: Outstanding Values: Key Features report, dated September 2020.
- (i) Section 42A report on PC7, dated October 2020 (“**section 42A report**”) and all appendices prepared by Ms Belinda Harper and Ms Nichola Nicholson.

Purpose and scope of evidence

17. In my evidence I will:

- (a) Summarise the environmental setting within which the Waikaremoana Power Scheme (“**WPS**”) sits;
- (b) Set out the relevant planning context;
- (c) Provide my analysis of the matters raised in Genesis' submissions;
and
- (d) Provide a brief conclusion.

ENVIRONMENTAL SETTING

18. Mr Gareth Gray's evidence provides an overview of the Waikaremoana Power

Scheme (“**WPS**”). I particularly note the following:

- (a) The WPS is located in between Te Urewera and Wairoa, along the upper seven kilometres of the Waikaretaheke River.
 - (b) The WPS comprises three power stations: Kaitawa (36 MW), Tuai (60MW) and Piripaua (42MW) power stations, together with associated infrastructure.
 - (c) Water that the WPS relies on is taken from Lake Waikaremoana. It is reticulated firstly to the Kaitawa Power Station, before being discharged into Lake Kaitawa. Water is then passed through Tuai Power Station and discharged into Lake Whakamarino. From there, water is carried by tunnel to Piripaua Power Station and is discharged into the Waikaretaheke River.
 - (d) The WPS has been part of the existing environment for decades. The Kaitawa Power Station was commissioned in 1949, Tuai Power Station was commissioned in 1929 and Piripaua Power Station was commissioned in 1943.
 - (e) The WPS is authorised by a number resource consents that were granted by the Hawke’s Bay Regional Council in 1998 and they do not expire until December 2032.
19. The WPS relies on being able to store water in, and manage water levels of, Lake Waikaremoana, and on being able to reticulate water from Lake Waikaremoana through the Kaitawa, Tuai and Piripaua power stations.
20. The WPS resource consents are subject to a comprehensive set of conditions. In general terms the conditions define matters such as:
- (a) Managing water levels in Lake Waikaremoana.
 - (b) Requiring the release of “recreational flows” into the Waikaretaheke River at specified periods of the year.

- (c) Restricting the rate at which water can be taken from Lake Waikaremoana.
- (d) Managing the releases of water.
- (e) Monitoring of water levels and flows, terrestrial vegetation and shoreline morphology and aquatic ecology.

THE PLANNING CONTEXT AND GENESIS' SUBMISSION

- 21. As outlined in the evidence of Mr Gray, the key issue of concern to Genesis in respect of PC7 relates to the identification of Lake Waikaremoana and the Waikaretaheke River as outstanding waterbodies without appropriately providing for the continued existence of the Waikaremoana Power Scheme.
- 22. The statutory documents I have analysed when assessing PC7 are:
 - (a) The now superseded National Policy Statement for Freshwater Management 2014 (amended 2017) ("**NPSFM 2017**").
 - (b) The recently promulgated National Policy Statement for Freshwater Management 2020 ("**NPSFM 2020**").
 - (c) The National Policy Statement for Renewable Electricity Generation 2011 ("**NPSREG**").
 - (d) The current provisions of the Regional Policy Statement ("**RPS**") section of the RRMP.
- 23. The provisions of the NPSREG are not considered or analysed in either the section 32 report or the section 42A reports. Regional Policy Statements and Regional Plans are required to give effect to all national policy statements, and in my opinion, the lack of analysis contained in the section 32 report and section 42A report means that PC7 cannot be said to give effect to the NPSREG.

National Policy Statement for Freshwater Management 2020

24. PC7 was notified at a time when the NPSFM 2017 was still operative, however it has now been superseded by the NPSFM 2020 (which came into effect in September 2020). I have therefore focussed my assessment on NPSFM 2020, which PC7 is required to give effect to (to the extent that it is within the scope of submissions). In that regard, I consider that the breadth of submissions is such that there is ample scope to give effect to the outstanding waterbody provisions of the NPSFM 2020 provisions within this plan change process.
25. The NPSFM 2020 defines an “outstanding water body” as follows:
- outstanding water body means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values.
26. The definition does not provide a list of what is able to be considered when determining outstanding values. However, the Hawke’s Bay Regional Council has limited its consideration to the “outstanding values” that were specifically listed in the NPSFM 2017 outstanding freshwater body definition¹.
27. I do not agree with Hawke’s Bay Regional Council’s limited application of outstanding values and consider that while giving effect to specific provisions of the NPSFM 2020, the council is also required to give effect to the provisions of the NPSREG (discussed further below).
28. While the definition of outstanding water body in the NPSFM 2020 refers to “outstanding values”, they are not defined. Nor does the NPSFM 2020 distinguish, nor create a hierarchy, between “outstanding” and “significant” values. Specifically, Policy 8 of the NPSFM 2020 requires the protection of the “significant values” of outstanding water bodies, and states:

Policy 8: The significant values of outstanding water bodies are

¹ The NPSFM 2017 definition is - “Outstanding freshwater bodies” are those water bodies identified in a regional policy statement or regional plan as having outstanding values, including ecological, landscape, recreational and spiritual values.

protected.

29. In my opinion, the NPSFM 2020 anticipates that outstanding values are to be assessed on a case by case basis and there is nothing in the NPSFM 2020 that precludes economic, consumptive or renewable electricity uses from being an outstanding value.
30. The NPSFM 2020 also requires freshwater to be managed as part of New Zealand's response to climate change, and that communities are enabled to provide for their social, economic and cultural wellbeing in a manner consistent with the NPSFM 2020. In that regard, Policies 4 and 15 state:

Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.

Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

31. In my opinion, these policies require consideration of how to enable communities to provide for their economic wellbeing, which, in my opinion must include significant hydro-electricity generation resources.
32. It is undisputed that maintaining or enhancing renewable electricity generation resources in New Zealand is critical to meeting New Zealand's climate change targets and the Government's zero carbon aspirations as enshrined in the Climate Change Response (Zero Carbon) Amendment Act 2019. The NPSREG, although now some nine years old, is also directly relevant in this context of giving effect to the NPSFM 2020 (see paragraph 40 for further details), especially the following provisions:
 - (a) Policy A of the NPSREG requires that decision makers recognise and provide for the benefits of renewable electricity generation. Once such benefit is "maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions" (clause (a));

- (b) Policy C of the NPSREG requires that decision makers have particular regard to “meeting or exceeding the New Zealand Government’s national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities” (clause (c)).
33. The NPSFM 2020 sets out a list of hydro-schemes where councils have the ability to set bottom lines below national targets, in recognition of their national significance. Notwithstanding that the WPS is not one of those listed schemes Policies 4 and 15 of the NPSFM 2020 are still directly relevant to PC7 and its treatment of the WPS.
34. In my opinion, the benefits of renewable electricity generation are therefore fundamental to any analysis involving Policy 4 and Policy 15 of the NPSFM 2020.
35. While the NPSFM 2020 does not define what outstanding and significant values are, it does provide a list of “compulsory values” and “other values to be considered” for freshwater management units (“**FMU**”). In that regard, Clause 3.9 (1) stipulates that the compulsory values listed in Appendix 1A apply to each FMU identified by a regional council, while Clause 3.9 (2) allows for councils to identify other values that are listed in Appendix 1B.
36. Appendix 1B specifically refers to hydro-electric power generation values, as follows:

6 Hydro-electric power generation

The FMU or part of the FMU is suitable for hydro-electric power generation.

Water quality and quantity and the physical qualities of the FMU or part of the FMU, including hydraulic gradient and flow rate, can provide for hydro-electric power generation.

37. In my view, these provisions of the NPSFM 2020 enable hydro-electric power generation to be included as an outstanding value for Lake Waikaremoana and the Waikaretaheke River, especially as the section 42A report contains

insufficient information to enable me to conclude that the natural, cultural and spiritual values of those waterbodies have been compromised by 90 years of hydro-electricity generation.

National Policy Statement for Renewable Electricity Generation

38. The objective of the NPSREG is:

To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand's electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government's national target for renewable electricity generation.

39. Overall, the NPSREG explicitly recognises that renewable electricity generation is a matter of national significance, and recognised by providing for the development, operation, maintenance and upgrading of existing renewable electricity generation activities.

40. In my opinion, and to be more specific, the policies of the NPSREG that are directly relevant to the consideration of PC7 are:

A. Recognising the benefits of renewable electricity generation activities

POLICY A

Decision-makers shall recognise and provide for the national significance of renewable electricity generation activities, including the national, regional and local benefits relevant to renewable electricity generation activities. These benefits include, but are not limited to:

- a) maintaining or increasing electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- b) maintaining or increasing security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
- c) using renewable natural resources rather than finite resources;
- d) the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
- e) avoiding reliance on imported fuels for the purposes of

generating electricity

B. Acknowledging the practical implications of achieving New Zealand's target for electricity generation from renewable resources

POLICY B

Decision-makers shall have particular regard to the following matters:

- a) maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and
- b) even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output; and
- c) meeting or exceeding the New Zealand Government's national target for the generation of electricity from renewable resources will require the significant development of renewable electricity generation activities.

C. Acknowledging the practical constraints associated with the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities

POLICY C1

Decision-makers shall have particular regard to the following matters:

- a) the need to locate the renewable electricity generation activity where the renewable energy resource is available;
- b) logistical or technical practicalities associated with developing, upgrading, operating or maintaining the renewable electricity generation activity;
- c) the location of existing structures and infrastructure including, but not limited to, roads, navigation and telecommunication structures and facilities, the distribution network and the national grid in relation to the renewable electricity generation activity, and the need to connect renewable electricity generation activity to the national grid;

....

E. Incorporating provisions for renewable electricity generation activities into regional policy statements and regional and district plans

....

E2 Hydro-electricity resources

POLICY E2

Regional policy statements and regional and district plans shall include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities to the extent applicable to the region or district.

....

41. The section 32 report for PC7 does not specifically address the NPSREG.

However, in responding to Genesis' feedback on the draft version of PC7, the section 32 authors state² [emphasis added]:

Plan Change 7 requires the protection of the significant values of OWB. Future catchment-based management plans, in consultation with key stakeholders, iwi authorities and the local community, will identify a list of significant values for any OWB in the catchment, and set out detailed direction on significant values of OWB in the catchment will be protected.

Plan Change 7 is not inconsistent with the National Policy Statement for Electricity Generation. Consumptive and economic use values (including electricity generation) can be identified as significant values and protected in future catchment management plans.

Notwithstanding, amendments made in response to other points of feedback during the pre-notification consultation period, have resulted in Policies LW3A being amended, and descriptions added in Schedule 25, to provide increased certainty to decision makers and resource consent holders and applicants. Certainly, other provisions already in the RRMP assist decision-makers giving effect to all national policy statements, including the NPS-REG.

42. The way that PC7 is drafted means that renewable generation-related values of an outstanding fresh waterbody can only be considered during subsequent catchment-based plan change processes, and then only as "significant values" that would be subservient to the "outstanding values" already specified in PC7.

43. I consider the section 32 report's assessment of the Genesis feedback on a draft version of PC7 to be incorrect. The test is not for PC7 to "not be inconsistent with" the NPSREG (as underlined in the quote above), but rather

² On page 31.

PC7 is required to “give effect” to it. There is no analysis in the section 32 or section 42A reports to indicate that the NPSREG has been actively considered, much less given effect to.

44. I do accept, however, that the section 42A report acknowledges the NPSREG, but only insofar as stating that the provisions of the NPSREG will be addressed in a future plan change process. The section 42A report states: ³

324. There are currently National Policy Statements for both Renewable Electricity Generation and Electricity Transmission, as well as a National Environmental Standard (NES) for Electricity Transmission Activities. Further, the NPSFM 2020 has specific provisions for identified large hydro-electric generation schemes set out in Subpart 1 (3.31) of the NPSFM.

325. As discussed in earlier in the report, Change 7 has a defined purpose which gives effect to the NPSFM OWB provisions and aspects of the NZCPS. The provisions within the NPS' and NES with respect to Renewable Electricity Generation and Electricity Transmission, together with other relevant NPS' and NES' will be addressed as part of the Council's wider resource management planning work programme.

326. The Hawke's Bay RRMP has existing provisions set out in Section 6.1.5 which relates to Electricity Transmission Activities, clarifying they can occur in a manner set out the NESET.

45. In my opinion, while PC7 is only intended to give effect to part of the NPSFM 2020, it is also required to do so in a way that also gives effect to other relevant National Policy Statements, including in this case, the NPSREG. This has not been done.

Regional Policy Statement

46. The RPS section of the RRMP recognises the importance of renewable electricity generation, and infrastructure of regional or national importance in several ways. Objective OBJ L1 sets out how freshwater is to be managed, and states (in clause (7) (which is unaffected by PC7)) “fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes”.....“recognising the potential national, regional and

³ On page 40.

local benefits arising from the use of water for renewable electricity generation”.

47. Policy LW1 of the RRMP requires the adoption of an integrated approach to the management of freshwater and the effects of land use and development within each catchment area that (among other matters) “avoids development that limits the use or maintenance of existing electricity generating infrastructure or restricts the generation output of that infrastructure” (clause (iC), which is unchanged by PC7).
48. Clause (iC) of Policy LW1 provides for opportunities for new renewable electricity generation infrastructure, and clause (E) directs that there be recognition and provision for existing use and investment which must, respectively, include the existing use of the WPS for electricity generation and the investment Genesis has made in the WPS.
49. Policy LW1, as amended by PC7, requires that regional plan provisions to be developed to manage activities in a manner “which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding waterbody”. The requirement to avoid adverse effects is problematic in my opinion. In the case of the WPS it is uncertain how effects on the currently identified outstanding values of Lake Waikaremoana and the Waikaretaheke River (which do not include the hydro resource being an outstanding value) can be avoided with the WPS operational. There are unintended and potentially significant consequences of this policy, which need to be considered in accordance with the requirements of section 32 of the RMA.
50. Chapter 3.13 of the RRMP reiterates the importance of physical infrastructure to the region. The key provisions are as follows:

ISSUE

- 3.13.1 The sustainable management, including further development, of the physical infrastructure of the region that underpins the economic, cultural, and social wellbeing of the region’s people and communities, and provides for their health and safety.

OBJECTIVES

- OBJ 32 The ongoing operation, maintenance and

development of physical infrastructure that supports the economic, social and/or cultural wellbeing of the region's people and communities and provides for their health and safety.

OBJ 33 Recognition that some infrastructure which is regionally significant has specific locational requirements.

OBJ 33A Adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities are avoided or mitigated.

Explanations and Reasons

....

3.13.5 Energy infrastructure, at regional level, primarily involves the generation and distribution of electricity, but increasingly may involve gas. The ability to maintain and develop the region's energy resources, and to distribute energy to areas within and outside the region, is essential in supporting the region's economic well being.

51. The RPS specifically acknowledges the importance of renewable electricity generation infrastructure. In my opinion, PC7 creates tensions between these enabling provisions of the operative RPS and the "protection" provisions of PC7 in the environment in which the WPS is located. This approach does not give effect to the NPSREG which requires that the benefits renewable electricity generation be recognised and provided for.

What Constitutes "Outstanding"?

52. As I understand, "outstanding" at the national level is well settled from water conservation order processes as meaning the "best of the best on a (national) comparative basis".

53. In relation to outstanding waterbodies, the section 32 report for the NPSFM 2014, states:

"Environment Court decisions indicate in that context "the test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a national basis".

54. The section 42A for PC7 report states [emphasis added]:

312. The NPSFM recognises that **OWB are a limited class of water bodies** which warrant special protection in regional

policy statements and plans. The purpose of the provisions is to protect the outstanding and significant values of an OWB as they currently exist.

313. Clause 2(bA)(iii) gives further effect to the NPSFM by requiring future plans to include provisions that will avoid adverse effects, that are more than minor, on the outstanding and significant values of OWB. While not specified, cumulative effects can be taken into account.
 314. The wording of Clause 2(bA)(iii) is potentially more stringent and directive than the NPSFM. However, **given that OWB are a limited class of water bodies that contain the 'best of the best' values in the region**, it is appropriate that these types of values are protected in this manner from all types of activities.
 315. Amending Clause 2(bA)(iii) to allow adverse effects that are more than minor on the significant and outstanding values of an OWB, may over time erode the quality of these values, meaning they are not protected in their current state. Further, the proposed wording of Clause 2(bA)(iii) ensures cumulative effects can be adequately taken into account.
55. I would have anticipated that when considering this same issue at a regional scale, as PC7 is attempting to do, that same “best of the best” principle would apply, albeit at the regional scale. Accordingly, I find it difficult to understand how the Hawke’s Bay Regional Council can justify there being 38 outstanding waterbodies in its region.
56. Other regional councils seem to be more selective in ascribing outstanding status.
57. Taranaki Regional Council, in the report titled “Freshwater bodies of outstanding or significant value in the Taranaki region: Review of the Regional Freshwater Plan for Taranaki”, dated January 2016, come to the conclusion that there were four outstanding waterbodies within its region (albeit covering several tributaries of certain rivers). The Taranaki Regional Council considered that the outstanding threshold should be similar to that of a water conservation order.
58. The Greater Wellington Proposed Natural Resources Plan lists three rivers three lakes and a number of wetlands as having “outstanding values”.
59. The Proposed Regional Plan for Northland (Appeals Version – August 2020) identifies six rivers and eleven lakes as being outstanding freshwater bodies.

60. It is my opinion that the Hawke's Bay Regional Council has not provided any justification for the assertion that there are 38 outstanding waterbodies in its region.
61. In my opinion, the Hawke's Bay Regional Council has provided insufficient information to justify the Waikaretaheke River being ascribed outstanding status – in other words, that it is the “best of the best”. I accept that tangata whenua may consider waterbodies within their individual rohe to be outstanding, but in my opinion the council is obliged to assess those cultural and spiritual values against the test of being the “best of the best” at a regional scale. Notwithstanding this, the broader RMA framework, and in particular the RRMP, already explicitly recognises these matters.
62. Overall, I consider that PC7 does not:
- (a) Provide sufficient detail justifying the outstanding values for some waterbodies, including the Waikaretaheke River; or
 - (b) Identify the spatial extent of the outstanding values of the identified waterbodies; or
 - (c) Identify the significant values of outstanding waterbodies, as is required under the NPSFM 2020; or
 - (d) Detail any methods as to how the outstanding of significant values will be protected; or
 - (e) Detail the plan provisions to manage activities in the vicinity of the outstanding waterbodies to avoid adverse effects that are more than minor on the outstanding and significant values.
63. In my opinion, it is not appropriate to identify outstanding waterbodies, and require their protection, while relying on subsequent plan change processes to “fill in the detail”. Instead, that evidence, including a full section 32 analysis, should be provided before the plan is changed so that parties can make fully informed submissions as to the implications of what is being proposed.

64. In summary, absent the inclusion of renewable electricity generation as an outstanding value of the WPS-influenced water bodies, subsequent plan change(s) will be necessary to implement PC7, thus, in my opinion, creating a “policy vacuum” for an indeterminate period of time.

Recognition of the WPS

65. The Genesis submission sought that the national significance of the WPS be recognised through the provisions of PC7.
66. The section 42A report addresses the submission points of Genesis and several other parties seeking that economic uses be recognised through the PC7 framework briefly, stating:

62. What values can make a water body outstanding?

63. The NPSFM is not clear on whether the types of values that can be identified as 'outstanding' for NPSFM purposes are restricted to intrinsic and non-consumptive use values, or if they can they include consumptive and economic use values such as irrigation, hydro-generation and tourism.
64. The 2011 and 2014 NPSFM defined 'outstanding freshwater bodies' as "those water bodies identified.... as having outstanding values, including ecological, landscape, recreational and spiritual values". While the definition of OFWB did not specifically refer to economic use values the word 'including' allowed for other values to be considered outstanding in addition to those specified.
65. The definition of 'outstanding water body' has been further amended in the 2020 NPSFM, with the outstanding value examples deleted, to read "outstanding water body' means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values".
66. In 2016, the Council sought advice from Simpson Grierson solicitors around whether consumptive use values have the ability to be classed as 'outstanding values' for NPSFM purposes. Simpson Grierson advised that while is theoretically possible to recognise economic and consumptive use values as 'outstanding' values for the purposes of the [then] NPSFM, this view is untested, has no case law precedent, and such an approach would be contentious and difficult to justify as being consistent with the objectives of the NPSFM.
67. In 2019, a local expert panel (see Paragraphs 122 and 123) independently considered the NPSFM provisions and excluded values associated with water taken out of the water body, where it is added to something to make it

valuable (e.g. water supply, irrigation, commercial and industrial uses) from their assessments of water bodies in Hawke's Bay.

68. Did the NPSFM intend economic and consumptive use values to be classed as outstanding?

69. When a rule or provision is unclear, the intent of a provision is referred to in order to gain a better understanding of its purpose. Discussions contained within past literature associated with the NPSFM OWB provisions have been referred to when determining the type of protection that was originally expected when these provisions were drafted.
 70. The proposed 2008 NPSFM clearly did not provide for the recognition of economic and consumptive use values under its outstanding freshwater provisions, with subsequent versions of the NPSFM potentially allowing their inclusion through the definition of outstanding water bodies.
 71. With respect to protection measures, all versions of the NPSFM have recognised OWB as a limited class of water bodies which warrant special protection, however the manner in which they have been protected has varied with the 2011 NPSFM protecting the quality of an OWB, with later versions protecting the significant values of an OWB.
 72. In 2016, the CEF OFWB project (See Paragraphs 45 and 46) concluded that the NPSFM never intended for economic and consumptive use values to be classed as outstanding, noting that any major changes around the identification and management of OFWBs would have warranted significant discussion in supporting NPSFM documents.
 73. In particular, the CEF project found it unlikely that subsequent versions of NPSFM, from 2011 onwards, were deliberately amended to allow for economic and consumptive use values to be classed as outstanding values without discussing the consequences of these changes in any supporting documents.
 74. Appendix 5 sets out a more detailed summary of 2008 - 2020 NPSFM OWB provisions, and the associated CEF OFWB project findings around the intent of the NPSFM.
67. As detailed earlier, the NPSREG specifies that renewable electricity generation is a matter of national significance. Although other economic uses of water are also important (and need to be considered as per the provisions of the NPSFM 2020 I discussed earlier), renewable electricity generation is distinct from other economic uses of a waterbody, given the NPSREG⁴.

⁴ Policy E2 of the NPSREG is explicit in requiring that Regional Policy Statements and Regional Plans shall include objectives, policies, and methods to provide for the development, operation, maintenance, and upgrading of new and existing hydro-electricity generation activities.

68. The values of Lake Waikaremoana and the Waikaretaheke River, and the WPS have co-existed for some 90 years. Lake Waikaremoana and the WPS are nationally significant and both need to be acknowledged.
69. The Section 42A report states that⁵:
- The NPSFM, and [Plan] Change 7, does not seek to enhance characteristics of a water body so that values of that water body become outstanding, or to improve them further if they are already outstanding. The purpose of the provisions is to protect outstanding values as they currently exist.
70. To address the issues identified in my evidence, I consider that renewable electricity generation should be included in PC7 as an outstanding value of Lake Waikaremoana and, if the Waikaretaheke River is determined to be outstanding, that hydro-electricity generation is similarly recognised.

Section 32AA

71. Section 32AA of the RMA, requires that:

Requirements for undertaking and publishing further evaluations

- (1) A further evaluation required under this Act—
- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
 - (b) must be undertaken in accordance with section 32(1) to (4); and
 - (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
 - (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
 - (ii) be referred to in the decision-making record in

⁵ At paragraph 228

sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
- (3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

72. In my opinion, the amendments I have proposed are more effective and efficient than those in the section 42A report because they will achieve similar environmental outcomes, but do so in a manner that gives effect to the NPSREG and in so doing not impacting the ongoing operation, maintenance and upgrading of the WPS.

CONCLUSION

73. Overall, in order for PC7 to give effect to the NPSREG, I consider that hydro-electricity generation should be identified as an outstanding value of Lake Waikaremoana and, if the Waikaretaheke River is determined to be outstanding, that hydro-electricity generation is similarly recognised.



DR PHILIP HUNTER MITCHELL

13 November 2020

**BEFORE THE HEARING
COMMISSIONERS**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Proposed Plan Change 7 to the Hawke's Bay
Regional Resource Management Plan

**STATEMENT OF EVIDENCE OF GARETH GRAY
ON BEHALF OF GENESIS ENERGY LIMITED**

13 November 2020

Introduction

1. My name is Gareth Gray. I have prepared this evidence on behalf of Genesis Energy Ltd (**Genesis**) in my role as the Renewable Energy Control Centre Manager/Principal Hydrologist with responsibility for the operation of the hydro-lakes at the Waikaremoana Power Scheme (**WPS, the Power Scheme**).
2. I hold a Bachelor of Science obtained from the University of Otago.
3. I have 10 years of experience in the hydro-electricity industry and 10 years of prior experience working for NIWA and the Horizons Regional Council as a Senior Hydrology Co-ordinator and Duty Flood Controller. I have held the role of Renewable Energy Control Centre Manager at Genesis for four years. My previous roles at Genesis include Senior Hydrology Technician, and Principal Hydrologist before the roles were combined.
4. The structure of my evidence is as follows:
 - a. Company overview;
 - b. Overview of the WPS;
 - c. Overview of existing monitoring, recreational activities and local engagement; and
 - d. Genesis' submission and conclusion.

Company Overview

5. Genesis is one of New Zealand's largest electricity and gas retailers. We generate and trade electricity and natural gas through a diverse range of assets across the country. Our portfolio of electricity generation assets include hydro, thermal and wind generation, with a combined nominal generation capacity of approximately 1,600 Megawatts (**MW**). Genesis is also an equity partner in the Kupe Joint Venture, which owns the Kupe Gas Project in Taranaki.
6. In addition to the WPS, Genesis' electricity generation assets include:
 - Tongariro Power Scheme – Central North Island;
 - Huntly Power Station – Waikato;
 - Hau Nui Wind Farm – Southern Wairarapa; and
 - Tekapo Power Scheme – Upper Waitaki.
7. Genesis is continuing to reduce carbon emissions from its electricity generation assets and, in that regard, has made firm commitments to replace its baseload thermal generation with new renewable electricity generation. An example of this includes the Waipipi Wind Farm in Taranaki (operational in 2021) through Genesis' Tilt Renewables partnership. Genesis' commitment to increase renewable generation capacity aligns with the Government's climate change policy towards low greenhouse gas

emissions and climate resilience in New Zealand. In conjunction with the need for additional large scale investment in generation capacity and storage, the protection of existing renewable generation assets and renewable generation capacity will be critical. Any reduction in current renewable generation capacity could hinder New Zealand's transition towards a low carbon economy.

8. Genesis does not dispute the importance of having a robust framework to manage New Zealand's natural and physical environment. In addition, Genesis acknowledges that its ability to generate renewable electricity relies on the capacity to continue using natural resources appropriately. Our electricity generation facilities have been through robust resource consenting processes and operate under a comprehensive suite of resource consents and approvals. In addition, we actively seek to engage with tangata whenua and other key stakeholders to minimise our local operational impacts.

Waikaremoana Power Scheme – Overview

9. The WPS is located between Te Urewera and Wairoa, along the upper 7km of the Waikaretaheke River. The 138MW Power Scheme comprises three power stations, and is among the oldest hydro schemes in New Zealand, with the main power station (Tuai) being commissioned some 90 years ago in 1929.
10. The WPS generates approximately 450,000 Megawatt hours (**MWh**) of electricity annually, which is equivalent to the annual electricity usage by approximately 56,250 households. As a significant generation site on the East Coast, the WPS is strategically important at both the regional and national levels. The scheme is located at the end of the Transpower National Grid spur servicing Gisborne, Wairoa and the East Coast. Although connection to the grid is via dual redundant and geographically separate transmission corridors, these corridors traverse rugged terrain and are supplied from substations in the Napier-Hastings district. These substations may be vulnerable in the event of a natural disaster (e.g. earthquake/tsunami). In the event of any disruption to the National Grid supply/connection, the WPS ensures continued electricity supply to essential services and the East Coast region.
11. Given the importance of the WPS, Genesis has an interest in the Proposed Plan Change 7 to ensure it appropriately provides for the continued existence of the WPS, including the ongoing operation, maintenance, upgrade or replacement requirements.
12. Genesis' current operation of the WPS is via a suite of resource consents granted by the Hawke's Bay Regional Council (**HBRC, the Council**), which authorised activities associated with the damming of the relevant waterbodies; taking of water for hydro-electricity generation and associated

discharge; and other ancillary and maintenance activities or one-off projects.

13. The current operative resource consents were granted in 1998 for a duration of 35 years, expiring in 2032.
14. Please refer to **Attachment 1** showing a map and cross section of the WPS.
15. In the following paragraphs, I outline each of the three power stations and briefly discuss the resource consent requirements.

Kaitawa Power Station

16. The 36MW Kaitawa Power Station, commissioned in 1948, is located by Lake Kaitawa and was the last power station to be constructed in the WPS. The power station is sourced by water directly from Lake Waikaremoana – a naturally formed dam resulting from a large historic landslide on the Waikaretaheke River more than 2200 years ago.
17. As part of the construction of the Kaitawa Power Station, a major reinforcing/sealing programme took place to reduce (as far as practical) leakage in the natural dam for the purposes of ensuring dam stability and allow more water to pass through the Kaitawa Power Station. The remaining leakage flow is an average of 5.0 cubic metres per second (**cumeecs**) since 1988 until today.
18. Water for the Kaitawa Power Station is taken from Lake Waikaremoana via a 1.1km long tunnel and penstock system, and discharged into a short canal and into Lake Kaitawa for use in the two downstream power stations. Under the existing resource consent, the Kaitawa Intake Structure may take up to 37 cumeecs of water for the Station. A siphon system and spillway are also in place to allow water to bypass the Station (such as in an outage) or when it is necessary to manage rising lake levels.
19. The existing resource consent for the damming of Lake Waikaremoana sets out the 'operating procedures' to manage the water level in the lake. In general, Genesis is required to manage the lake level within a 3m range between a maximum of 583.29m and minimum of 580.29m above mean sea level (subject to additional controls on minimum discharge volumes and seasonality being met).

Tuai Power Station

20. The 60MW Tuai Power Station was commissioned in 1929 and was the first power station of the WPS. The power station takes water from Lake Kaitawa via a 1.3km long tunnel and penstock system. The consented rate of water take is 42 cumecs from the Tuai Intake Structure.
21. Lake Kaitawa was originally a small spring-fed lake and wetland. In the mid-1920s, the construction of an earth dam and weir across the Waikaretaheke River allowed the water level to be raised by 3m, thus converting it into a permanent lake. Genesis' resource consent for Lake Kaitawa requires a normal operating range of 3.4m, between a maximum lake level of 453.5m and minimum of 450.1m above mean sea level.
22. The water that passes through the Tuai Power Station is discharged into Lake Whakamarino.

Piripaua Power Station

23. Lake Whakamarino is an artificial lake created for the hydro development by construction of two earth dams across the Kahuitangaroa Stream. The earth dam contains a spillway structure and a sluice gate structure. The spillway structure incorporates an automatic tipping gate, and allows water to pass directly down the Kahuitangaroa Stream, which joins with the Waikaretaheke River a short distance downstream.
24. In addition to receiving water discharged from the Tuai Power Station, a weir built on the adjacent Waikaretaheke River also diverts water into the Lake Whakamarino with the consented maximum take not exceeding 27 cumecs.
25. The consented normal operating range of water level on Lake Whakamarino is 1.8m, between a maximum of 248.1m and minimum of 246.3m above mean sea level.
26. Water from Lake Whakamarino is taken via the Piripaua Intake Structure at a consented maximum rate of 52 cumecs. The water passes through a 3.0km long tunnel and penstock system to the 42MW Piripaua Power Station which was commissioned in 1943 and is located in the bed of the Waikaretaheke River. The residual Waikaretaheke River is diverted around the power station via an artificial channel and re-joins its original course approximately 200m downstream. Water discharged from the Piripaua Power Station flows into the natural riverbed of the Waikaretaheke River via a tailrace.

Monitoring, Recreation Activities, and Local Engagement

27. As required by resource consent conditions, Genesis undertakes a range of ongoing monitoring to assess effects (if any) resulting from the Lake Waikaremoana lake level changes and flow fluctuations on the Waikaretaheke River. Matters regularly monitored include terrestrial vegetation; shoreline landforms and erosion patterns; the littoral ecology and trout population; aquatic biota; eel passage; hydrological data and access to fishing opportunities for anglers. The monitoring results are provided to a range of parties, including the Council; Tuhoe-Waikaremoana Maori Trust Board; Wairoa-Waikaremoana Maori Trust Board; and Fish and Game Council.
28. Genesis has a strong compliance record with respect to lake level and river flow management, and this can be demonstrated by the annual compliance reports provided to the Council. During the 23 years since consents were granted, the limited number of non-compliance events have been minor, with Genesis taking appropriate steps to remedy any actual or potential effects.
29. In addition to the generation of renewable electricity, the WPS also provides for recreational activities, including regional canoe competitions. Lake Waikaremoana and Lake Whakamarino are both utilised by recreational anglers, and kayakers utilise the Waikaretaheke River throughout the year during several recreational release events from the Piripaua Power Station and Lake Whakamarino. The events are scheduled in consultation with Whitewater New Zealand and the Hawke's Bay Canoe Club. All relevant information is released on the WWNZ and Genesis websites.
30. Genesis is active in the community and takes its duty of care seriously, beyond its resource consent requirements. The WPS is a major employer for Tuai, and our employees are highly trained, with their skills often utilised in the local community. As part of the Local Community Resilience Group, Genesis staff provide emergency support for the Tuai Rural Fire Party and Search & Rescue. Genesis also provides scholarships to the Wairoa College for tertiary education, as well as local Kura and kōhanga reo sponsorship.

Genesis' Submission and Conclusion

31. As outlined in Genesis' submission on Proposed Plan Change 7, Genesis has fundamental concerns that the proposed provisions would negatively affect the ongoing operation of the WPS, and the potential for re-consenting when the existing suite of resource consents expire in 2032.

32. As outlined in my evidence, the WPS has existed in the Hawke's Bay region for some 90 years and operates under multiple resource consent conditions set by the Council to ensure its effects on the environment are appropriate. Given the critical role the WPS plays in securing the supply of electricity in the East Cape region, and its contribution to New Zealand's overall renewable electricity generation capacity, Genesis considers it is important the Proposed Plan Change 7 gives appropriate recognition to the WPS and ensure its ongoing operation is provided.

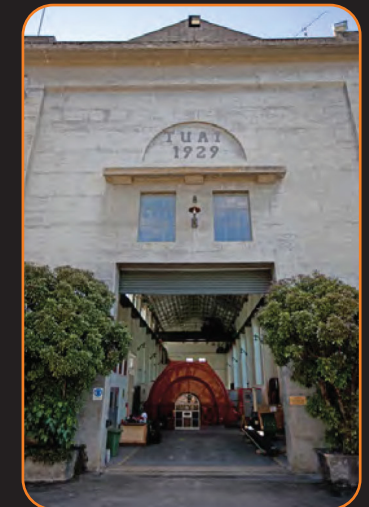
33. Genesis is concerned that the Proposed Plan Change 7 as currently drafted has identified Lake Waikaremoana and the Waikaretaheke River as outstanding water bodies without appropriately providing for the continued WPS operation. Whilst Genesis supports an appropriate resource management framework that protects our natural resources in accordance with the Resource Management Act, Genesis queries the process that has been adopted by the HBRC to determine waterbodies that are outstanding. Further details will be discussed in our planning expert's evidence (Dr Phil Mitchell).

Gareth Gray
13 November 2020

Attachment 1: Waikaremoana Power Scheme map and cross section



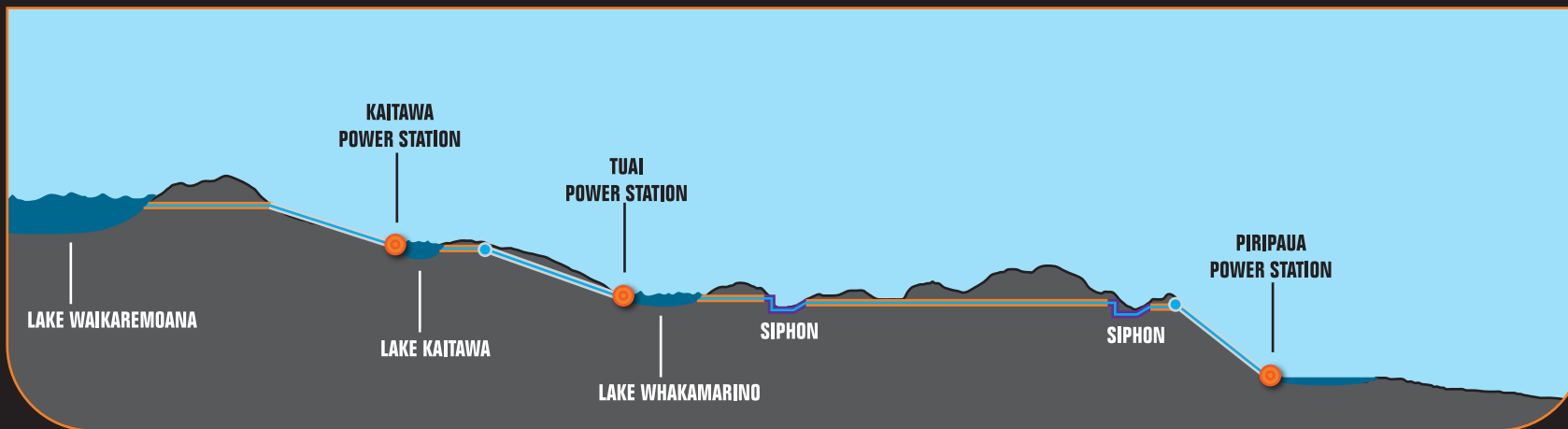
KAITAWA POWER STATION (36 MW)



TUAI POWER STATION (60 MW)



PIRIPAUA POWER STATION (42 MW)



BEFORE THE HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of proposed Plan Change 7 to the RRMP

AND

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

SECTION 42A REPORT OF CERI EDMONDS

**ON BEHALF OF HAWKE'S BAY REGIONAL COUNCIL
GENERAL OVERVIEW AND INTRODUCTION TO PLAN CHANGE 7
13 NOVEMBER 2020**

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A. EXECUTIVE SUMMARY

1. The purpose of Proposed Plan Change 7 (“**PC7**”) to the Hawke’s Bay Regional Council (“**HBRC**”) Regional Resource Management Plan (“**RRMP**”) is deliberately focused. HBRC is tasked with ensuring all water bodies within the region are managed wisely, whilst ensuring that water is available for the use and enjoyment of everyone in the region, including tāngata whenua, now and for future generations. PC7 is just one in a series of workstreams which are currently being undertaken by HBRC to progressively implement the National Policy for Freshwater Management (“**NPSFM**”).
2. Specifically, PC7 is designed to:
 - (a) Identify a list of outstanding water bodies (“**OWB**”) in Hawke’s Bay, being those water bodies (including estuaries) which contain an outstanding cultural, spiritual, recreation, landscape, geological, natural character or ecology value(s).
 - (b) Insert a policy framework which directs a high level of protection for these water bodies in future plan making under the RMA.
 - (c) Provides guidance and direction to future catchment based planning processes, and respective local community discussions, ensuring that future rules for outstanding water bodies are developed in a manner which protects their significant values.
 - (d) Provide guidance and direction to HBRC when making decisions on future activities near outstanding water bodies.
 - (e) Partly assist with the implementation of the NPSFM which contains certain requirements regarding OWB.
 - (f) Partly assist with the implementation of the New Zealand Coastal Policy Statement (“**NZCPS**”) which seeks to avoid the adverse effects on natural character, outstanding natural features and natural landscapes and certain types

of habitats and ecosystems in the coastal environment.

3. However, it should be noted that it is not the purpose of PC 7 to enhance characteristics of a water body so that values of that water body become outstanding, or to improve them further if they are already outstanding.

B. INTRODUCTION

4. My full name is Ceri Harrietta Edmonds.
5. 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.
6. In my Manager role, I am responsible for the oversight of HBRC's policy development, monitoring and evaluation work, including in relation to the Regional Resource Management Plan (RRMP) and the National Policy Statement for Freshwater Management.
7. I hold a Bachelor of Resource and Environmental Planning (BRP) (Hons) from Massey University.
8. Since 2019 I have been involved in the development of PC7.

C. SCOPE

9. My evidence provides an overview of the key drivers, influences and complexities that set the framework for the development of PC7.
10. Whilst not directly responding to individual submissions, I provide comment relating to the process, timing and 'journey' of PC7 which goes some way to address comments raised in submissions. At a high level I have also addressed the changes proposed by

the Ministry for the Environment's ("MfE") "Actions for Healthy Waterways" package, and the programme HBRC is embarking on to give effect to the NPSFM (now the 2020 version) within the required timeframes.

11. I am providing evidence on behalf of HBRC, based on my experience in my role as Policy and Planning Manager in respect of 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 PC7 in that respect. My evidence is intended to provide context and background to PC7.
12. I do not make any specific recommendations in respect to relief sought in submissions, although as I note above, to the extent relevant to my role within HBRC, I have commented in response to those submissions regarding the timing of PC7 and its process.

D. CONTEXT

13. In 2011, the Government released the NPSFM to help drive national consistency in freshwater planning. At around the same time, HBRC began work on preparing a change to the Regional Policy Statement implementing the new direction for freshwater management contained in the NPSFM and the 2011 Hawke's Bay Land and Water Management Strategy. That plan change was known as Plan Change 5 – Land and Freshwater Management. Preparation of plan change 5 involved preliminary identification of outstanding water bodies in Hawke's Bay. A draft version of PC5 listed several outstanding waterbodies for public feedback. The subsequent public feedback received on that draft plan change led HBRC to re-think its approach to identification of OWB in Hawke's Bay.
14. In 2012, Proposed Plan Change 5 was publicly notified without a list of OWBs, and a standalone OWB Plan Change was added into HBRC's NPSFM progressive

implementation work programme.

15. Several submitters expressed concern that Proposed Plan Change 5 did not include a list of OWB, and subsequently lodged appeals with the Environment Court, citing concerns that the identification of OWBs in Hawke's Bay would not be progressed.
16. In 2013, to alleviate concerns that an OWB Plan Change would not be progressed, parties to the PC5 appeals signed a Consent Order which was subsequently approved by the Environment Court without need for a formal hearing. The Consent Order directed the addition of a new policy (Policy LW1A) into the Regional Policy Statement. Policy LW1A directs that an OWB Plan Change be notified prior to the next catchment based management plan being publicly notified (Mohaka Catchment exempted). In 2014, HBRC began preparatory work to inform a region wide OWB Plan Change and soon revealed ambiguities in the NPSFM's provisions for outstanding freshwater bodies.

Community Environmental Fund Outstanding Freshwater Body Project

17. In 2014, HBRC partnered with the Ministry of the Environment and Auckland Council to further investigate the intent of the outstanding freshwater body ("**OFWB**") provisions in the (then 2011) NPSFM and attempt to develop a set of criteria and thresholds that could be used by regional and unitary councils to identify outstanding water bodies across New Zealand. A significant amount of work was undertaken as part of this project, including:
 - (a) A comprehensive review of all briefing papers, regulatory impact statements, cabinet papers, Section 32 evaluations and other relevant literature used to inform the development of the NPSFM's OFWB (Outstanding Fresh Water Bodies) provisions¹.

¹ Riley B; 2015; *Criteria and methodology for determining outstanding freshwater bodies*; Literature Review One (intent of the NPSFM),

(b) A comprehensive review of the WCO reports and recommendations released by various courts and tribunals, to identify common themes, factors and characteristics of those water bodies with an outstanding status under a WCO².

18. The Community Environment Fund OFWB Project succeeding insofar as making conclusions around the intent of the NPSFM's OFWB provisions and identified common themes, factors and characteristics of those water bodies with a nationally outstanding status. Findings included:

(a) Being outstanding is a high test. The term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'.

(b) An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessarily be outstanding

(c) A water body needs to have at least one outstanding value before qualifying as an OFWB under the NPSFM. A sum of two or more significant values is not enough to qualify the water body as outstanding.

(d) While various documents underpinning the NPSFM's development appear to have never intended that economic and consumptive use values be classed as outstanding, the current wording of the NPSFM does seem to allow economic and consumptive use value such as such as tourism, irrigation or energy to potentially be classed as outstanding if a Council choose to do so.

(e) A water body can only be reviewed in the context of its present condition, its

Part One: Stocktake; and Riley B; 2015; *Criteria and methodology for determining outstanding freshwater bodies*; Literature Review One (intent of the NPSFM), Part Two: Summary report;

² Water Conservation Order Review - Outstanding Values: Key Features; Ministry for the Environment, Auckland Council, Hawke's Bay Regional Council.

'outstanding-ness' cannot be assessed on its past condition or its potential value.

HBRC Outstanding Water Body Plan Change (PC 7)

19. In 2017, HBRC began developing Change 7, seeking to identify a list of the region's outstanding water bodies and developing a framework which ensured a high level of protection for these water bodies in future plan making under the RMA.
20. Preparation of PC7 began with a thorough review of over 90 documents, collecting information on the key values associated with 130 of the region's water bodies. Prior to that substantial body of work being finalised, Iwi authorities were contacted, and feedback requested on the information found with each of the 130 water bodies. This work built a clearer picture of values associated with a wide range of water bodies across the region and their potential for being classed as outstanding.
21. Following this review in early 2018 of those 130 water bodies, 42 water bodies were short-listed by HBRC's Regional Planning Committee ("RPC") for further consideration as outstanding. HBRC engaged with iwi authorities, key stakeholders and wider public for further input at this stage of the process. In 2018, a local expert panel was engaged to identify any outstanding characteristics of the 42 nominated water bodies. A series of meetings were held with iwi authorities, key stakeholders groups and territorial local authorities to discuss drafting of PC7.
22. In May 2019, a final evaluation report was completed and presented to the RPC. This set out the findings for each of the 42 water bodies, on a value by value basis, from the literature reviews, the local expert panel and feedback received during engagement. A number of water bodies within the final evaluation report had limited information, particularly with respect to the cultural and spiritual value set. On reviewing this information, the RPC noted that Maori history is recorded orally, and much of the

information and knowledge is held with local marae and hapu. Later in May 2019, Iwi authorities in Hawke's Bay were invited to provide comment on a draft version of PC7. At the same time, those iwi authorities were also invited to provide further information on those water bodies that had limited information on their cultural and spiritual values.

23. In July 2019, HBRC resolved to publicly notify PC7, with a total list of 38 OWB. In doing this at the time, HBRC and the RPC had fully acknowledged that there was a lack of evidence in published material supporting an outstanding status for some of those 38 water bodies. In recognition of these information gaps, HBRC intentionally notified PC7 with an extended six month notification period. The extra-long submission period was unconventional, but it was to enable submitters to gather further evidence in support of the proposed outstanding status of water bodies, noting there are opportunities to further modify proposed provisions in PC7 during the formal submission and hearing stages in accordance with Schedule 1 of the RMA. At the time of notification, HBRC had offered resourcing to four specific iwi authorities - Heretaunga Tamatea Settlement Trust, Ngati Hineuru, Ngāti Ruapani and Tātau Tātau o Te Wairoa. That offer of resourcing was made to assist with those iwi authorities' gathering of information to feature in their submissions on PC7.

E. NOTIFICATION OF PC 7

24. The decision to notify PC7 with known information gaps was carefully considered, with HBRC acknowledging that it is not a conventional process to propose a plan change with known evidential deficiencies and then use the submission process to fill those known information gaps. Notwithstanding, the risk of not acting or delaying PC7 was deemed

to be high³, particularly given the requirements of RPS Policy LW1A which precludes catchment based plan changes, such as Change 9 (TANK Plan Change) being notified before PC7's own public notification. HBRC is very conscious that freshwater is one of Hawke's Bay's most precious natural resources, and therefore HBRC considered delaying the OWB plan change would further delay the implementation of the NPSFM and an overall improvement of the region's resources, given no catchment based plan changes could be progressed until PC7 was notified.

25. In the absence of national guidance on criteria for evaluating and identifying 'outstanding' water bodies, HBRC directed that for the purposes of PC 7:
- (a) in order to be 'outstanding', a water body must contain a cultural, spiritual, recreation, landscape or ecology value, in its own right, which stands out from the rest on a regional basis.
 - (b) economic and consumptive use values are excluded from consideration as 'outstanding values'.
 - (c) The identification of outstanding water bodies will be based on existing evidence and past publications. No new studies or investigations will be carried out.
 - (d) the scope of PC 7 is limited to the identification of outstanding values only⁴.
 - (e) estuaries are included in the scope of PC 7.
26. Further, based on the findings of the Community Environmental Fund OFWB project, and legal advice obtained from Simpson Grierson, for the purposes of Change 7 it was determined that:
- (a) Being outstanding is a high test. The term 'outstanding' distinguishes something

³ Section 32 Evaluation Report – Proposed Plan Change 7 (Outstanding Waterbodies)

⁴ Notwithstanding, Change 7 does include a list of significant values for those outstanding water bodies located within the Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments. These significant values have been identified through preparation of the Change 9 TANK Plan with tāngata whenua and the community NOT as part of Change 7.

from others based on its exceptional qualities and is typically used to describe the 'best of the best'.

- (b) Outstanding and significant values are not the same. An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessary be outstanding (based on legal advice and case law in context of s6 RMA).
- (c) A water body needs to have one outstanding characteristic before the water body is classified as outstanding. Cumulative significant values do not trigger an outstanding status.

F. NATIONAL POLICY DIRECTION

- 27. The Government has released several National Policy Statements (NPS) over the last 10 years. Of most relevance to PC 7 is the NPS for Freshwater Management (NPSFM), and the New Zealand Coastal Policy Statement (NZCPS), which are discussed in more detail below.
- 28. The RMA requires regional councils to amend regional policy statements (and regional plans) to give effect to NPS's. NPS's will commonly state required outcomes, but 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

- 29. In July 2011, the Government's National Policy Statement for Freshwater Management first came into effect. It was updated and replaced in 2014, amended further in 2017, and most recently replaced in September 2020.
- 30. The original NPSFM signaled a new direction in 2011 for the management of freshwater

resources in New Zealand, with one of the key areas of direction being the protection of outstanding freshwater bodies. This theme continues through the 2020 NPSFM.

NZCPS

31. There is no requirement in the New Zealand Coastal Policy Statement (NZCPS) to identify outstanding coastal waterbodies, however it does contain provisions directing the protection of outstanding natural character, natural features and natural landscapes of the coastal environment from inappropriate subdivision, use and development. Furthermore, the NZCPS also contains requirements to maintain coastal water quality (Objective 1) consider the effects of activities on coastal water (Policies 4 and 5) and improve deteriorated coastal water quality (Policy 21).

Water Conservation Orders (“WCO”)

32. In the Hawke’s Bay region, there is one WCO in effect – the Water Conservation (Mohaka River) Order 2004. An application for an Order for the Ngaruroro and Clive rivers remains subject to Environment Court proceedings.

Mohaka WCO

33. The Mohaka River WCO was the subject of protracted proceedings after the application was made in October 1987. The application was lodged under the [then] Water and Soil Conservation Act 1967 by the Hawke’s Bay Acclimatisation Society and Council of North Island Acclimatisation Societies. A tribunal received 123 submissions and published its report and recommendations in March 1990. The [then] Planning Tribunal was asked to consider the application further. The Planning Tribunal made its report and recommendations on 8 April 1992, yet it wasn’t until 15 November 2004 when the

Environment Minister finally made the Water Conservation (Mohaka River) Order 2004.

34. As section 62(3) of the RMA requires that regional policy statements must not be inconsistent with a WCO, PC 7 cannot be inconsistent with the Water Conservation (Mohaka River) Order 2004.
35. Clause 4 of the Mohaka WCO identifies the following outstanding characteristics and features of the Mohaka River and its tributaries:
 - (a) an outstanding trout fishery in the mainstream, upstream of the State Highway 5 bridge and in the tributaries; and
 - (b) outstanding scenic characteristics in the Mokonui Gorge; and
 - (c) outstanding scenic characteristics in the Te Hoe Gorge [although this gorge is not on the Mohaka River's mainstem]; and
 - (d) an outstanding amenity for water-based recreation from the State Highway 5 bridge to Willow Flat.
36. The 2020 NPSFM has amended the definition of 'outstanding waterbody' from earlier versions to now mean: "a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values".
37. Given the amended definition of outstanding waterbody in the 2020 NPSFM, those parts and features of the Mohaka River as identified in Paragraph 35 are OWB for the purposes of the NPSFM, and consequently PC 7 also. However, that does not automatically mean the water body in its entirety is outstanding for those same values or any other values.
38. In this report, the Mohaka WCO particularly relates to parts of the following water bodies in Change 7:
 - (a) Hautapu River

- (b) Mohaka River
- (c) Ripia River
- (d) Te Hoe River

Ngaruroro and Clive Rivers WCO Application

39. 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 the 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 PC 7 in relation to the Ngaruroro River as the WCO application remains unsettled and no Order has been made.

G. LOOKING AHEAD

40. It is important to consider PC7 in the wider context of freshwater improvement in the region and nationally. The frequent changes to the NPSFM and the moving goalposts from central government have made planning for the future complex for regional councils, iwi/hapū, and communities alike.
41. 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 2020 NPSFM 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 (“**RCEP**”). Only very recently have decisions been made to combine these broader plan review workstreams and the freshwater planning work. The programme to progressively implement earlier versions

of the NPSFMs by a series of catchment-based plan changes has been abandoned, save for the TANK Plan (PC9) which was publicly notified before the 2020 NPSFM and RMA amendments came into effect. PC7 also continues as its own workstream.

42. The 2024 deadline is much shorter and more challenging compressed timeframe, than the previous NPSFM 2017. The 2020 NPSFM'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. It is a large and significant piece of work that will come at a significant cost to HBRC, tāngata whenua and local communities.
43. HBRC is conscious that in delivering on the 2024 deadline it will need to work consistently with and give effect to Treaty legislation. 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 determining the appropriate policies and rules to protect the significant values of OWB within the catchments.
44. I accept that people will have particular views, beliefs and opinions with regards to what PC7 should or should not do, these have been well expressed in submissions and I thank all those who have contributed. The contributions expressed through submissions, through pre-hearings and through evidence are hugely important in providing information to the Hearing Panel. 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.

H. SUMMARY

45. Plan Change 7 is one of a series of work programmes which are currently being undertaken to implement the NPSFM and suite of other national direction from the Government. All of that is fundamental to support HBRC in wisely managing all water bodies within the region and to ensuring that water is available for the use and enjoyment of everyone in the region, including tāngata whenua, now and for future generations.



Ceri Edmonds

13 November 2020

**BEFORE THE HEARING COMMISSIONERS APPOINTED BY HAWKE'S BAY
REGIONAL COUNCIL**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND IN THE MATTER of Hawke's Bay Regional Council
Proposed Plan Change 7 (PPC7) -
Outstanding Water Bodies

**STATEMENT OF PLANNING EVIDENCE OF CHARLOTTE
JOSEPHINE MARY DRURY FOR HORTICULTURE NEW ZEALAND**

13 NOVEMBER 2020

INTRODUCTION

Qualifications and experience

1. I am the Principal Planner and Director of View Research and Resource Management Limited. I hold a Bachelor of Science (Geography) and a Master of Regional and Resource Planning from Otago University.
2. I have over 15 years' experience in resource management practice. I was employed for over a decade by the Hawke's Bay Regional Council in a number of roles that have enabled me to develop particular expertise in the areas of consenting, and policy development and implementation of freshwater policy.
3. In addition to my ongoing work as a planner, I am also currently studying towards a Doctorate of Philosophy through Massey University's School of Agriculture. Although I have not yet completed my PhD I am in the final stages of my candidature, and I believe it is relevant to note here because my research has explored what shapes freshwater governance. I have interviewed farmers and people associated with the Hawke's Bay Regional Council in the context of the Tukituki River Catchment in an effort to gain insights into what really has shaped freshwater governance in that context.
4. What has emerged from my research is evidence of a highly complex and messy situation in which both farmers and the regional council grapple with a raft of influences that shape how they respond to, and engage in, freshwater governance. I believe my research is relevant and worthwhile noting here because it has revealed that the effective governance of freshwater is influenced by both formal (e.g. NPSFM and regional planning documents) and informal institutions (such as norms and individuals worldviews). Given the ongoing renegotiation and shaping influence of both types of institutions, the space of freshwater governance is constantly evolving. To enable effective freshwater governance, the formal institutions that seek to achieve it must provide as much flexibility and ability to adapt as possible, while still providing sufficient protection. It is a fine balance to strike, and arguably an Outstanding Water Bodies Plan Change that classifies 38 waterbodies as outstanding, and establishes a

hierarchy of values, in addition to that set in the NPSFM2020, could actually create a barrier to effective freshwater governance.

Expert Code of Conduct

5. Although this is not a hearing before the Environment Court, I am providing evidence in my capacity as a planning expert, and therefore I believe it is relevant to confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence before the Hearings Panel. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Involvement in these proceedings

6. I have been engaged by Horticulture New Zealand (**HortNZ**) since early 2018. HortNZ recognised the need to have a local resource management practitioner, experienced in freshwater matters, to fulfill a support and facilitation role for local growers, as well as represent the interests of the critically important horticulture sector in relevant resource management processes.
7. I have provided independent planning advice to HortNZ in relation to the numerous resource management related matters that affect growers within the region, including the TANK Plan Change (PPC9) and the Ngaruroro WCO hearings and appeal process.
8. I have been involved with Proposed Plan Change 7 – Outstanding Water Bodies since it was notified in August 2019. I wrote both the submission and further submission for HortNZ in this Proposed Plan Change 7 process.

Purpose and scope of evidence

9. I have been engaged by HortNZ to provide expert planning evidence in relation to Proposed Plan Change 7. My evidence focuses on the recommendations in the s42A report that relate to key points made in HortNZ's submissions.

10. In preparing my evidence I have reviewed the following documents:
- (a) Proposed Plan Change 7, Outstanding Water Bodies Plan Change to the Regional Resource Management Plan.
 - (b) The New Zealand Coastal Policy Statement (December 2010)(NZCPS).
 - (c) The National Policy Statement for Freshwater Management 2014 (amended 2017) (NPSFM).
 - (d) The National Policy Statement for Freshwater Management 2020 (NPSFM2020).
 - (e) The Hawke's Bay Regional Resource Management Plan (including the relevant provisions of the Regional Plan and the Regional Policy Statement) (RRMP).
 - (f) Proposed Plan Change 9 TANK (Tūtaekurī, Ahuriri, Ngarurororo, Karamū River Catchments) Plan Change (PPC9 or TANK Plan Change) and the associated Section 32 report.
 - (g) Much of the documentation associated with the WCO application for the Ngaruroro and Clive Rivers, as I am acting as the planning expert for HortNZ in that process also.

SUMMARY OF HORTNZ'S KEY SUBMISSION POINTS & RELIEF PROPOSED

11. In their original submission dated February 2020, the key concerns raised by HortNZ related to the following matters:
- (a) The hierarchy of values proposed;
 - (b) The number of water bodies that were proposed to be classified as outstanding; and
 - (c) The lack of detail provided within the Plan Change about what the outstanding (and significant) values of water bodies are.
12. Each of these matters is addressed in turn below, and discussion focused on the recommendations in the s42A report related to that matter.

Hierarchy of values proposed

13. In its submission, HortNZ emphasised the importance of a consent authority maintaining an ability to balance competing values, and outlined concerns about the proposed hierarchy that (where conflict exists) explicitly prioritises outstanding values over significant values in all cases (i.e. is not context specific).
14. The proposed prioritisation attracted submissions from a number of parties, and HortNZ again addressed it in its further submission, noting the further complication created by the introduction of a hierarchy in the recently gazetted NPSFM2020, in which the sole objective states the following:
- The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way 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.*
15. As set out in s62 (3) of the RMA, a regional policy statement must give effect to an NPS. It is my view that as currently drafted the various provisions of PPC7 that require the prioritisation of outstanding values over significant values could be in conflict with the NPSFM2020 objective.
16. To illustrate this potential conflict I provide the following example: Lake Waikaremoana is classified as being outstanding for a number of values, including recreation. As is outlined in the s42A report, it was decided early in the PPC7 process that consumptive (and economic) use values could not be classified as outstanding values (for the purposes of the PPC7 process). The abstraction of drinking water is a consumptive¹ use, therefore in Hawke's Bay can only be

¹ In the absence of a definition of 'consumptive values' in either the NPSFM2020, RRMP (that incorporates the RPS), or the RMA, a definition from MfE has been used in this instance that explains consumptive water use as being when water is removed from a water body for a purpose (including for domestic supply) and is not returned to the water resource system.

classified as a significant value. The protection of the outstanding recreational value would have to be given preference over the significant drinking water value. If however the two potentially conflicting uses of recreation and abstraction of drinking water were considered under the hierarchy set out in the NPSFM2020 Objective, the abstraction of drinking water (which provides for the health needs of people) would be prioritised over the recreational value, which arguably would sit third in the NPSFM hierarchy, as something that provides for people's social and potentially also cultural well-being.

17. As expressed in their initial submission, HortNZ's preference would be for the deletion of all references to the proposed hierarchy from PPC7. However, I do note the reporting officers support for the maintenance of the proposed hierarchy in the s42A report. If the hearing panel was of the mind to retain the proposed hierarchy, it is my view that clear guidance about how potential incompatibility between the NPSFM2020 and PPC7 is to be managed, needs to be incorporated into the relevant provisions of PPC7.
18. I also remain uncomfortable with the recommendations in the s42A report with regards to the drafting of POL LW3A(1)(c) and POL C2(1)(c). It is my view that the justification for the potential restrictions outlined in subsection (c) that could be placed on a resource consent remain unclear.
19. Both location and timing form crucial components of a proposal, and are based on the particular needs of the activity being applied for. In assessing a consent application and making a substantive decision, all potential and actual effects of an activity must be had regard to already, and that includes the location of a particular activity and the timing of it.
20. Specifically drawing a decision makers attention and focus to the location and timing of an activity, and setting down a generic response to what are case specific matters, continues to appear unjustified, particularly when the consent authorities discretion with regards to what it can impose conditions in relation to is not restricted in any case given that

LW3A only applies to activities classified as discretionary or non-complying².

21. If the potential effects of an activity on the protection of a water body's outstanding and/or significant values warrant the imposition of a consent condition that relates to the location or timing of that activity, then a condition could and should be imposed, however the need to specifically focus on location and timing is not clear.
22. I question what value POL LW3A(1)(c) and C2(1)(c) add in terms of providing guidance to decision makers, as consideration of the effects of both the location and timing of an activity must already be made as part of reaching a substantive decision on any resource consent application. As outlined in their submission, HortNZ stated that they did not believe that subsections LW3A(1)(c) and C2(1)(c) were necessary, and should be deleted, and I share that view.

Number of water bodies proposed to be classified as outstanding

23. In its original submission, HortNZ raised concerns about the number of water bodies that were proposed to be classified as outstanding, and submitted that the list should be reduced to those water bodies that are truly remarkable.
24. I believe that the reporting officers recommendation to include the 'Outstanding Water Body Screening Framework' provides a means of addressing this issue, and I support the addition of the framework to Part 2 of Schedule 25, and its use to identify the water bodies that are ultimately classified in PPC7 as being outstanding.
25. In its original submission, HortNZ raised particular concerns about the grounds on which the Heretaunga and Ruataniwha Aquifers had been deemed to be outstanding, and note with interest that the application of the proposed screening framework led the reporting officers to conclude that sufficient evidence had not been provided that confirmed that either aquifer was 'outstanding' from a geological

² It is noted that the applicability of the policy is not restricted to these activity classifications in the Regional Coastal Plan (i.e. Policy C2) that relates to the coastal environment, and the reason for this is unclear, however HortNZ has few members growing within the coastal environment, and therefore are not as concerned about the provisions of that plan, noting however that where possible consistency across the two plans would be helpful from a plan usability perspective.

perspective, and therefore neither should be classified as being outstanding for geological values.

26. I support that recommendation, and also support the reporting officers recommendation that the hearing panel make a specific finding on cultural and spiritual values based on evidence presented at the hearing. If sufficient evidence is not presented to the hearing panel however, then it must follow that neither aquifer would meet the proposed criteria for outstandingness for any value.
27. In its original submission, HortNZ also raised concern about how the lack of detail in Schedule 25 would make it difficult for a consent applicant and the consent authority to prepare and assess consent applications and make informed assessments about what potential effects an activity could have on an outstanding value. I believe that some further amendments (i.e. in addition to those proposed by the reporting officers) to Part 3 of Schedule 25 could address this.
28. I believe that a further column needs to be added to Table 2 of Part 3 of Schedule 25 in which the evidential sources that were used to identify an outstanding value are listed. This could be a sub-column of Column 3 that is headed 'Supporting evidence', and then provides reference details for the document/s in which relevant information is contained.
29. I also suggest that from a usability perspective it would be helpful if a different row could be created for each outstanding value (where there are multiple outstanding values identified for one water body), so that the outstanding value, its description, and the evidential sources that have been used to inform the classification of outstandingness for that particular value are really clear.
30. As outlined in their original submission, HortNZ strongly supports values (both outstanding and significant) requiring written evidence to support them, and I believe that the suggested amendments set out above would aid all plan users in understanding how a value has been identified as outstanding, by referring to the written evidence if they so choose.
31. While acknowledging that it may be on the periphery of what is within the scope of HortNZ's submissions, but with a view to assisting the hearing panel, I note that the evidential basis of

the significant values identified in Part 3 of Schedule 25 for the TANK Catchments are not clear.

32. The terminology used in Column 4 of Table 2 (of Part 3 of Schedule 25) is not consistent with that used within Section 5.10 of Proposed Plan Change 9 (notified version dated 2 May 2020) that purports to detail TANK values, therefore the source and evidential basis of these significant values is not clear. Noting also the early stage in the public process that Proposed Plan Change 9 is currently at, and therefore the potential for change, as well as a desire for consistency in approaches across all catchment planning process, I suggest that all information in Column 4 of Table 2 related to significant values is deleted, and only inserted once the provisions of each catchment planning process are finalised, which will enable the evidential basis for the significant values identified to be clearly stated.
33. For completeness it is noted that while in its original submission HortNZ sought to have the water bodies identified as outstanding in Schedule 25 generally restricted to those identified by the expert panel (noting also HortNZ's opposition to the classification of the Heretaunga and Ruataniwha Aquifers as outstanding), given the greater level of clarity around assessment criteria and information sources that the proposed Outstanding Water Body Screening Framework requires, and that the framework itself was developed out of a robust assessment process that was informed by the findings of various courts and tribunals about how a value can be determined to be outstanding, I now favour the screening framework being used to determine the classification of all outstanding water bodies for PPC7, rather than the adoption of the expert panels findings, while acknowledging that the criteria developed by the expert panel for the natural character value set has been integrated into the framework proposed in Part 2 of Schedule 25.

Lack of guidance about outstanding values

34. I believe that the proposed inclusion of the outstanding water body identification screening framework, as recommended by the reporting officers, goes a significant way to addressing HortNZ's concerns about the lack of guidance provided in the plan change about outstanding values. I believe that the further amendments suggested in relation to the form of Table 2 of Part 3 of Schedule 25 would provide further clarity about

how values have been identified as outstanding. It is my view that identification of a clear pathway and evidential linkage between information on which a determination of outstandingness has been made, and a water body's classification as outstanding (and consequential inclusion in Table 2) is critical to ensure that PPC7 does practically provide protection for outstanding water bodies and that plan users understand why certain frameworks or restrictions are implemented. This is important to achieve change both socially and environmentally.

35. In its submission, HortNZ requested the identification of specific measurable outcomes that could be used to help determine whether an outstanding value was being protected. While it remains HortNZ's view that this would be useful, I acknowledge that such a level of specificity may not be appropriate in a regional policy statement, but suggest that they should be considered for inclusion within catchment specific regional planning frameworks.

CONCLUSION AND RECOMMENDATIONS

36. In conclusion, I am generally supportive of the recommendations outlined in the s42A officers report – particularly the inclusion of the outstanding water body screening framework in Part 2 of Schedule 25, which I believe provides clarity and transparency to the plan change that was previously lacking.
37. However, I do still have some residual concerns about the proposed plan change. I believe that the following further amendments are essential to ensure that PPC7 provides real protection for the truly outstanding water bodies within the Hawke's Bay region:
- (a) Deletion of all references to the hierarchy that prioritises outstanding values over significant values. If that recommendation is not adopted, then guidance must be included about how the potential conflict between the hierarchy in NPSFM2020 and that set in PPC7 is to be managed;
 - (b) Deletion of POL LW3A(1)(c), and POL C2(1)(c); and
 - (c) Addition of a column to Table 2 of Part 3 of Schedule 25 in which evidential sources relied upon to identify water bodies as outstanding are listed.

Charlotte Josephine Mary Drury

13 November 2020

**BEFORE THE HEARING COMMISSIONERS APPOINTED BY HAWKE'S BAY
REGIONAL COUNCIL**

IN THE MATTER of the Resource Management Act 1991
(the Act)

AND IN THE MATTER of Hawke's Bay Regional Council
Proposed Plan Change 7 (PPC7) -
Outstanding Water Bodies

**STATEMENT OF EVIDENCE OF MICHELLE KATHLEEN SANDS FOR
HORTICULTURE NEW ZEALAND**

13 NOVEMBER 2020

INTRODUCTION

Qualifications and experience

1. My name is Michelle Kathleen Sands. I am the Environment Manager at Horticulture New Zealand (HortNZ). I manage HortNZ's Environment Policy Team who are involved in national, regional and district planning processes across New Zealand. I have been in this role since May 2018.
2. I hold a Bachelor of Science (Honours) from Victoria University (1995). I am a member of the New Zealand Hydrology Society and a Certified Environmental Practitioner with the Environment Institute of Australia and New Zealand. I have over 20 years of post-graduate experience in environmental management. During this time, I have worked in local government, the voluntary sector, research, consultancy and currently for the horticulture industry.
3. My experience includes providing expert witness testimony on water quality and hydrology issues at council hearings, Board of Inquiry processes and Environment Court processes.
4. Since beginning my role at HortNZ, I have met with growers across New Zealand to better understand their horticultural operations and how resource management issues impact them.
5. I have led HortNZ involvement and consultation on the development of the proposed National Policy Statement for Freshwater Management 2020 (NPSFM) and National Environmental Standard for Freshwater (NES FW). I provide technical oversight for water planning processes that HortNZ is engaged with currently which includes active processes in the Otago, Canterbury, Wellington, Manawatu, Hawke's Bay, Gisborne, Bay of Plenty, Waikato and Northland regions. I led HortNZ's involvement in climate change policy and am on the Steering Group for He Waka Eke Noa – primary sector partnership for climate change.
6. While I am a qualified and experienced hydrologist and water quality scientist, I am not appearing in the capacity of an expert in this hearing. My role in this hearing is as HortNZ's representative and advocate.

Involvement in these proceedings

7. I have been involved with Proposed Plan Change 7 – Outstanding Water Bodies since it was notified in August 2019. I have reviewed and approved the submission and further submission made on behalf of HortNZ in this Proposed Plan Change 7 process.

Purpose and scope of evidence

8. My evidence describes the horticulture sector in the Hawke's Bay Region, starting with:
 - (a) A description of the functional parts of the sector;
 - (b) The scale and key components of Hawke's Bay production;
 - (c) How production in the Hawke's Bay region is integrated with other regions.
9. My evidence also summarises the key concerns raised by HortNZ in our original submission dated February 2020.

HAWKE'S BAY'S HORTICULTURE SECTOR

10. HortNZ is the industry good body for the horticulture sector representing growers who pay levies on fruit and vegetables sold either directly or through a post-harvest operator. The levy rate is set in processes outlined in the Commodity Levies (Vegetables and Fruit) Order 2013.
11. Around 22,000 ha of land is used for commercial fruit and vegetable production in the Hawke's Bay region, 16,800 ha of this on the Heretaunga Plains. There are around 380 horticultural growers in the region.
12. HortNZ is affiliated with two key local associations representing growers within the Hawke's Bay region. The two local associations are:
 - (d) the Hawke's Bay Fruitgrowers Association; and
 - (e) the Hawke's Bay Vegetable Growers Association.
13. Alongside these local associations, several Product Groups representing specific product categories are also affiliated to HortNZ. These Product Groups have their own commodity levies. One of these product groups, New Zealand Apples &

Pears, is based in Hastings because of the importance of the Hawke's Bay to pipfruit production. Most of the other 21 Product Groups are active within the Hawke's Bay region as well.

14. The Crown Research Institute, Plant and Food, has significant research facilities located near Havelock North. Plant and Food have extensive research trials relating to all facets of growing and production. The research facilities employ more than 60 staff. The facility includes a modern purpose-built laboratory and over 60 ha of research orchards and research areas for field crops.
15. There are two significant international fruit and vegetable processing facilities located in Hastings. The Hawke's Bay region produces over 30% of New Zealand's processed vegetables. Heinz Wattie's Ltd (**Heinz**) has recently invested over \$100 million in upgrading factories at King Street and Tomoana. McCain Foods (NZ) Ltd (**McCain**) has invested over \$70 million in factory facilities including a \$19 million plant upgrade in 2011. Also, we have seen new processing investment in the region with Apollo Apples investing \$30 million in a new apple juice processing factory, opened in 2018.
16. Heinz and McCain post-harvest processes alone are significant employers in Hastings and the Hawke's Bay region, employing over 1800 people.

Hawke's Bay is outstanding for horticulture

17. Horticultural regions function as part of a national food system, with different crops being harvested at different times in different regions.
18. Hawke's Bay harvests kiwifruit after Bay of Plenty and apples before South Island markets. This rolling harvest season enables New Zealand producers to secure access to export markets.
19. Similarly, for domestic markets, summer fruit such as nectarines and peaches grown in Hawke's Bay supply New Zealand consumers before later season fruit becomes available from the South Island. This regional food system supports a resilient and reliable domestic food system which is critically important to ensuring the health of New Zealand's population.
20. Hawke's Bay production of fruit and vegetables occurs on a year-round basis due to the significant climatic benefits enjoyed by the region.

21. Within this national food system, Hawke's Bay stands out as being without doubt nationally outstanding for horticultural food production.
22. Over 100 crops are grown in the region. This is a very high degree of crop diversity compared with other NZ regions and includes:
 - (f) 70% of NZ apples;
 - (g) Over 50% of squash and pumpkin;
 - (h) 50% of peas and sweetcorn; and
 - (i) 30% of NZ summerfruit.
23. The region has 11% of New Zealand's horticultural land.
24. As outlined in our submission HortNZ argues that economic and consumptive uses should have been able to be considered as outstanding values.
25. Many of Hawke's Bay's water bodies, including the Heretaunga Plains Aquifer, are outstanding in the Hawke's Bay context, and arguably in the national context, for economic and consumptive values – namely the volume and quality of horticultural crops that can be grown as a result of the reliable source of water that can be drawn from them, and the economic benefits to the wider Heretaunga Plains community that result from this are immense, and enable many, many people and communities to provide for their social and economic wellbeing.

SUMMARY OF HORTNZ POSITION

26. In our original submission, HortNZ emphasised the importance of a consent authority maintaining an ability to make an overall judgement when considering competing values. We outlined concerns about the proposed hierarchy that explicitly prioritises outstanding values over significant values in all cases.
27. The proposed PC7 framework means that the protection of economic and consumptive values will never be afforded the highest priority in an outstanding water body. To be classified as outstanding, the waterbody must also have at least one outstanding value. That value must be protected as a priority over economic and consumptive values. This priority is because economic and consumptive values cannot be classified as outstanding under PPC7.

28. HortNZ's preference would be for the deletion of all references to the proposed hierarchy from PPC7.
29. In our submission, HortNZ raised concerns about the number of waterbodies that were proposed to be classified as outstanding. Thirty-eight waterbodies in the Hawke's Bay region were proposed to be classified as being outstanding. It is our submission that this list must be reduced to those water bodies that are truly remarkable.
30. In our submission, we note that the identification of aquifers as outstanding water bodies is without precedent in New Zealand. Maintaining the ability for growers to abstract water from the Heretaunga and Ruataniwha Aquifers, and undertake other activities associated with their operations such as discharges, is critical to the ongoing success of the horticultural industry in the region. Around 250 growers grow above either the Heretaunga or Ruataniwha Aquifers – that means that potentially around 70% of growers within the Hawke's Bay region would be impacted if the Heretaunga and Ruataniwha Aquifers were classified as outstanding waterbodies.
31. It is HortNZ's view that the identification of a clear evidential link between the information on which a determination of outstandingness has been made, and a water body's classification as outstanding, is critical to a coherent and functional plan change that does facilitate the protection of the regions genuinely outstanding water bodies. This clarity is important to achieve change both socially and environmentally.

CONCLUSION AND RECOMMENDATIONS

32. HortNZ believes that the following further amendments are essential to ensure that PPC7 provides real protection for the truly outstanding water bodies within the Hawke's Bay region:
- (j) Deletion of all references to the hierarchy that prioritises outstanding values over significant values.
 - (k) Deletion of POL LW3A(1)(c), and POL C2(1)(c); and
 - (l) Addition of a column to Table 2 of Part 3 of Schedule 25 in which evidential sources relied upon to identify water bodies as outstanding are listed.

Michelle Kathleen Sands

13 November 2020

BEFORE THE HEARINGS PANEL

IN THE MATTER OF The First Schedule to the Resource
Management Act 1991

A SUBMISSION FROM Te Taiwhenua O Heretaunga and Ngāti
Kahungunu Iwi Incorporated

ON PROPOSED PLAN CHANGE 7

STATEMENT OF EVIDENCE FROM MAURICE WAYNE BLACK

PLANNING / CULTURAL – PROPOSED PLAN CHANGE 7

12 NOVEMBER 2020

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1. Introduction

Qualifications and experience

1 My name is Maurice Wayne Black. My hapū is Ngāti Hawea o Heretaunga. My marae is Matahiwi. I have whakapapa connections to Ngāti Kahungunu, Ngā Rauru Kitahi and Ngāti Porou.

1.1 I am a self-employed resource management consultant and researcher with over 16 years' experience. I have diplomas in Business and Environmental Studies from the Open Polytech of New Zealand and gained accreditation from the Ministry for the Environment's Making Good Decisions programme in 2008¹.

1.2 From 2004 to October 2012 I contracted to Ngāti Kahungunu Iwi Incorporated ("NKII") on strategic planning and resource management matters, and also represented Te Taiwhenua o Tamatea and Te Taiwhenua o Heretaunga (TtoH) through hearings and appeal processes on proposed plans and resource consent applications/renewals.

1.3 Since 2012, I have continued to be engaged by NKII and TtoH on specific issues associated with resource management. From 2014 to March 2020 I was the resource management representative for the Kahungunu ki Tāmaki nui-a-Rua Trust, which is the taiwhenua advocating the interests of Kahungunu whānau and hapū in the Tararua District. Each of these taiwhenua are affiliated to NKII.

1.4 Primarily my roles have included: -

- Providing resource management advice on numerous issues;
- Liaison services between Kahungunu entities, local government, NGOs, corporations and Crown agencies;
- Representation and participation in planning processes with territorial and regional authorities on proposed plans and resource consent applications, with many of these consents being related to freshwater and marine issues;

¹ In 2016 my certification lapsed and I did not renew it.

- Legal representation at Environment Court proceedings in Manawatū and Hawke’s Bay;
- Assisting with Iwi/Hapū Management Plans;
- Providing guidance on environmental matters associated with Treaty Claims
- Managing environmental education programmes and Cultural Impact Assessments processes for multiple issues².

1.5 I have represented hapū/taiwhenua on the Hawke’s Bay Regional Council’s Māori Advisory and Environmental Management Committees, the Hastings District Council-Joint Māori Committee and the Central Hawke’s Bay District Council Māori Consultative committee, and the Manawatū River Leaders’ Accord.

1.6 I have been engaged by the Department of Conservation, the Ministry for the Environment and the Environmental Protection Authority on policy development and legislative reform. I was engaged as an independent commissioner at local government level and I assist students with their environmental studies and research.

1.7 Throughout the Heretaunga, Tamatea and Tāmaki nui-a-Rua I am considered an expert on resource management, particularly issues related freshwater. For Change 7, I was nominated by NKII and TtoH to be on an expert panel established by HBRC to consider a draft list of “*outstanding water bodies*”.

1.8 The panel worked under a terms of reference and was provided with background reports that Hawke’s Bay Regional Council (HBRC) planning staff had considered or prepared prior to initiating Change 7. In addition, data on the NPSFM 2014 (as amended 2017), and other matters that were considered relevant to the identification and protection of the outstanding values and significant values of outstanding water bodies.

² E.g. Wānanga in Te Urewera and the Ruahines; CIAs for river diversions, stormwater and wastewater discharge consents, oil exploration and electricity generation.

1.9 My role on the panel was to provide “a Māori view” on a draft Schedule of outstanding water bodies and provide an indication of their outstanding values from a Māori perspective. In this role I was careful to point out to HBRC staff and other members of the panel, that the views expressed were my own and not representative of any hapū or Treaty claimant group.

1.10 While on the panel, I was cognisant of a provision in Change 5³, which was inserted by HBRC decision following the hearings for Change 5 which stated in part;

“OBJ LW3 Tāngata whenua values in management of land use and development and freshwater

Tāngata whenua values are integrated into the management of freshwater and land use and development including:

a) recognising the mana of hapū, whanau and iwi when establishing freshwater values;”

Expert code of conduct

1.11 I have read the Code of Conduct for Expert Witnesses in section 5 of the Environment Court Practice Note (2011) and agree to comply with that Code. Except where I state that I am relying on documents or evidence of another person, my evidence within this statement is within my area of expertise. I have not purposely omitted to consider material facts known to me that might detract from my evidence or the opinions I express.

Scope of my evidence

1.12 My evidence will cover: -

- The statutory context and the NPSFM and NZCPS
- The background to Change 7 and the s42A report
- Outstanding values from a cultural and spiritual perspective
- Comments and opinion on abstractive values, and

³ Change 5 was a change to the Regional Policy Statement, intended to provide direction to future catchment-based regional plans, and guide implementation of the NPSFM (2011).

- Reference to the principles of the Treaty of Waitangi.
- Amendments sought for Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated.

2. The Statutory Context and NPSFM

Plan changes in Hawke’s Bay

- 2.1 Following gazetting of the NPSFM 2011, HBRC prepared an Implementation Programme for the NPSFM which including a timetable to have the NPSFM fully implemented over a number of years⁴ (Appendix One). One of the preliminary steps was Change 5.
- 2.2 Change 5 was a change to the RPS and intended to set a framework to guide the development of catchment-based plan changes to follow, so as to progressively implement the NPSFM (2011). It included provision for protecting the quality of outstanding freshwater bodies in OBJ LW1.1.
- 2.3 Publicly notified in October 2012, it only became operative in August 2019, partly due to HBRC staff and resources being re-directed to the Ruataniwha Water Storage Scheme (RWSS) and Change 6 for a number of years, and an appeal⁵ against HBRC’s decision to amend the definition of “wetland” in Change 5 so that it differed from that in section 3 of the RMA 1991. This appeal took several years to resolve.
- 2.4 Change 5 contained a number of provisions agreed between appellants and HBRC, including:

“POL LW1A Problem solving approach – Wetlands and outstanding freshwater bodies

1. *To work collaboratively with iwi, territorial authorities, stakeholders and the regional community:*

⁴ National Policy Statement for Freshwater Management Implementation Programme for Hawke’s Bay Regional Council – HBRC, September 2012.

⁵ Hawke’s Bay Fish and Game Council v Hawke’s Bay Regional Council – ENV-2013-WLG-000054.

a) to identify outstanding freshwater bodies at a regional level and include provisions in the Regional Policy Statement to list those waterbodies and guide the protection of the outstanding qualities of those waterbodies; and

b) to prepare a Regional Biodiversity Strategy and thereafter include provisions in the Regional Policy Statement and/or regional plans to (amongst other things) guide the protection of significant wetland habitat values identified by the Strategy.

2. *In relation to Policy LW1A.1, the identification of outstanding freshwater bodies will be completed and an associated change to the Regional Policy Statement will be publicly notified prior to public notification of any further catchment-based plan changes prepared in accordance with Policy LW1.” (My emphasis).*

Although wetlands and their values were traversed during the meetings of the expert panel convened to inform Change 7, I note that the proposed definition for “*outstanding water body*” in Change 7 does not include wetlands. Wetlands are however given an element of protection in their own right through RMA s6.

2.5 The RMA at s6(a), requires “*the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*”.

2.6 Change 6 which considered the RWSS and the management of freshwater and land use within the Tukituki catchment, was progressed and became operative 1st October 2015, almost 4 years before Change 5. Consequently, management of land use and freshwater in the Tukituki catchment, does not currently consider the protection of the quality of outstanding freshwater bodies within its scope, nor of their outstanding or significant values.

2.7 Change 5 became operative on 24th August 2019. Change 7 for Outstanding Water Bodies was publicly notified one week later on 31 August 2019, and in part, seeks to

amend provisions that were previously agreed through Environment Court consent orders between HBRC and other parties⁶. I am concerned with the changes to nomenclature, that deletes the “fresh” from “freshwater bodies” in several provisions, which in my view is a breach of previous agreements.

2.8 In addition, this alters the meaning of the provisions where these amendments are proposed in Chapter 3.1A, a chapter specifically targeted at “*Integrated Land Use and Freshwater Management*”, so that “*outstanding freshwater body*” now includes estuaries through definition. This creates an ambiguity and inconsistency when it is also used to describe or specify a body of coastal water in the coastal environment, as in an estuary or coastal wetland that is not comprised of freshwater.

2.9 The NPSFM 2020 now uses the term outstanding water body, but under the umbrella of a management regime specifically designed for freshwater. Section 2 of the RMA 1991 describes “water body” as meaning:

“freshwater or geothermal water in a river, lake, stream, pond, wetland or aquifer that is not located within the coastal marine area”;

2.10 Change 7 amends the glossary in the RRMP so that “*Outstanding water body means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s)*”.

2.11 The definition of outstanding water body in Change 7, at least in this regard, is inconsistent with the Act, as an estuary within the coastal marine area and coastal environment, is neither freshwater, nor a “*water body*” in terms of s2 of the Act. In my opinion, the proposed definition for the glossary should be amended to include both outstanding water body and outstanding coastal water (or something of like meaning and intent).

⁶ This included Ngāti Kahungunu Iwi Inc v Hawke’s Bay Regional Council ENV-WLG-2013-000050

- 2.12 The NPSFM 2020 became operative 3rd September 2020. In terms of the management of freshwater, it requires all freshwater planning instruments to have been publicly notified by 31st December 2024 (RM Amendment Act 2020, s80A(4)(b)) and to be operative 2 years after that (where an exception has not been granted). It would be prudent for Change 7, through decision-making, to give effect to the NPSFM 2020 wherever possible and where there is scope within submissions to do so, given the plan changes still to be progressed by HBRC, will need to give effect to the operative NPSFM 2020.
- 2.13 The RPS and Change 7 should provide clear direction to upcoming regional plans, and reference to and coherence with the NPSFM would be beneficial to ensuring a consistent approach to each future freshwater planning instrument. This would result in alignment with higher level policy directions in the RMA, and the NPSFM.
- 2.14 Other scheduled plan changes for the region include
- a) Change 8 – Mohaka Catchment;
 - b) Change 9 – The Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments (already notified); and
 - c) Two further plan changes to address:
 - remaining smaller catchments not covered by Changes 6 – 9,
 - change to the RCEP, and
 - a Kotahi plan change projected to combine all regional plans into one planning document .
- 2.15 The NPSFM 2020 requires all freshwater planning instruments to be publicly notified by 2024 and operative by December 2026. It will require some agility in planning processes for HBRC to be able to undertake the above as well as Change 7, the science and research necessary to inform them, and to have them all publicly notified by December 2024, and operative by December 2026 as envisioned by the Ministry for the Environment and the NPSFM.

The New Zealand Coastal Policy Statement (NZCPS)

- 2.16 The NPSFM provisions for outstanding water bodies apply only to freshwater bodies, and include those freshwater bodies located within the coastal environment, but do not apply generally to “*coastal water*”.
- 2.17 Coastal water is defined in the Act where:
“coastal water means seawater within the outer limits of the territorial sea and includes—
(a) seawater with a substantial fresh water component; and
(b) seawater in estuaries, fiords, inlets, harbours, or embayments.”
- 2.18 A Regional Policy Statement (RPS) is required to give effect to the NCPS, while providing an overview of the resource management issues of the region along with policies and methods to achieve integrated and sustainable management (RMA s59).
- 2.19 For Change 7, HBRC must prepare a change to its RPS in accordance with:
“a) its functions under section 30; and
(b) the provisions of Part 2; and
(c) its obligation (if any) to prepare an evaluation report in accordance with section 32; and
(d) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
(da) a national policy statement, a New Zealand coastal policy statement, and
a national planning standard; and
(e) any regulations.”
- 2.20 The NZCPS mentions “outstanding” in two of its policies but does not define the term “outstanding” in the glossary. Although the NZCPS is relevant to Change 7 to a certain degree, in my view the NZCPS objectives and policies of particular relevance to Change 7 are:

Table 1: NZCPS Objectives and Policies

NZCPS provision	Issues of particular relevance to Change 7 – <u>My emphasis</u>
Objective 1	<ul style="list-style-type: none"> • <u>maintaining or enhancing natural biological and physical processes in the coastal environment.</u> • <u>protecting representative or significant natural ecosystems and sites of biological importance.</u> . . . • <u>maintaining coastal water quality.</u> . .
Objective 2	To <u>preserve the natural character of the coastal environment and protect natural features and landscape values.</u> . .
Objective 3	To <u>take account of the principles of the Treaty of Waitangi.</u> . .
Objective 4	To <u>maintain and enhance the public open space qualities and recreation opportunities of the coastal environment</u>
Policy 1	<p>1. Recognise that the coastal environment includes:</p> <p>. . . .</p> <p>(c) <u>areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these; and</u></p> <p>(e) <u>coastal vegetation and the habitat of indigenous coastal species including migratory birds;</u></p> <p>(f) <u>elements and features that contribute to the natural character, landscape, visual qualities or amenity values;</u></p> <p>(g) <u>items of cultural and historic heritage in the coastal marine area or on the coast;</u></p> <p>(h) <u>inter-related coastal marine and terrestrial systems, including the intertidal zone;</u></p>
Policy 2	<p>In taking account of <u>the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment .</u></p> <p>c). . . incorporate <u>mātauranga Māori</u> in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes; and</p> <p>g)(ii) . . . provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori,</p>
Policy 7(1)	<p>identify areas of the coastal environment where particular activities and forms of subdivision, use and development:</p> <p>(i) <u>are inappropriate;</u></p>
Policy 11	<p>Indigenous biological diversity (biodiversity)</p> <p><u>To protect indigenous biological diversity in the coastal environment:</u></p>
Policy 13	<p><u>Preservation of natural character</u></p> <p>(1) <u>To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:</u></p>
Policy 15	<p>Natural features and natural landscapes</p> <p><u>To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development</u></p>
Policy 17	<p>Historic heritage identification and protection</p> <p><u>Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development.</u> . . .</p>

2.21 The requirements to protect are self-explanatory, although there is the proviso where the protection is from what is deemed inappropriate subdivision, use and development. The terms “to safeguard” “to maintain” and “to preserve” also include elements of protection, given the matters referred to are to be safeguarded, maintained or preserved in their current state from inappropriate actions.

2.22 In terms of Change 7 and the coastal environment, this applies to:

- natural biological and physical processes;
- natural character;
- natural landscapes;
- natural features, and
- indigenous biological diversity

That are associated with those freshwater bodies and coastal waters identified as outstanding in Schedule 25.

2.23 Some provisions in the RCEP and operative RRMP already provide a degree of protection for some OWBs specified in Schedule 25, including Objectives 11-1 and 11-2 where there is to be no degradation of water quality in the Heretaunga Plains Aquifer System or maintenance or enhancement⁷ of water quality in in other aquifers in the region.

2.24 In regard to the principles of the Treaty of Waitangi, HBRC has identified the Treaty principles it considers relevant to the region and its functions under s30 in promoting the purpose of the Act. These are to be taken into account when drafting and preparing plans and plan changes, including Change 7.

2.25 These are articulated as part of the RRMP in Schedule 1 – “Background to the Māori Dimension” (Attached as Appendix Two) and include the principle of Active Protection. Schedule 1 is also referred to in Objective LW3.

⁷ Where water quality has declined below what occurs naturally – RCEP Objective 11-2

“OBJ LW3 Tangata whenua values in management of land use and development and freshwater

Tangata whenua values are integrated into the management of freshwater and land use and development including:

..... c) recognising and providing for wairuatanga and the mauri of fresh water bodies in accordance with the values and principles expressed in Chapter 1.6, Schedule 1 and the objectives and policies in Chapter 3.14 of this Plan;”

2.26 The Principle of Active protection in Schedule 1 states:

“The guarantee of te tino rangatiratanga given in Article II is consistent with an obligation to actively protect Maori people in the use of their lands, water and other protected taonga, to the fullest extent practicable. In the context of resource management, the various elements which underlie and are fundamental to a spiritual association with the environment (including mauri, tapu, mana, tikanga and wairua) may all fairly be described as taonga that have been retained by Māori in accordance with Article II of the Treaty. The principle of active protection therefore extends to the spiritual values and beliefs of Māori”.

2.27 For Change 7, I consider that the ‘elements’ referred to above can be interpreted as values, as some already have been in regional plans for Hawke’s Bay. Where these are regarded as outstanding values in relation to water bodies, then they should be included in Schedule 25.

2.28 Schedule 1 includes reference to the preservation of mauri as part of *“the Māori conservation ethic”*. Conservation means *“1. the act or an instance of conserving from change, loss, injury etc., and 2. a protection, preservation and careful management of natural resources and of the environment”* (Collins).

2.29 For Change 7, and operative RPS Objective LW3 (c),

“recognising and providing for wairuatanga and the mauri of fresh water bodies in accordance with the values and principles expressed in Chapter 1.6, Schedule 1 and the objectives and policies in Chapter 3.14 of this Plan;”

includes recognising and providing for the conservation ethic (ethos, principle, code, tenet) and its associated values including the preservation of mauri in outstanding water bodies in Schedule 25. Deletion of water quality from Objective LW1 through proposed Change 7, and failure to include protection of water quality in propose Objective 11, creates an inconsistency with Objective LW3 that is not subject to change through Change 7. This also diminishes the potential for Objective LW3 to be achieved or given effect to through catchment-based plan changes yet to come, particularly where they will also need to be prepared so as to align with Te mana o Te Wai.

2.30 Objective 1 of the NZCPS is particularly relevant to water quality in the coastal environment.

“Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

...

- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

2.31 in the NZCPS Policy 13 requires:

“Preservation of natural character

(1) To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:

(a) avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character;” and in Policy 15

“Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

(a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment;”

2.32 Policy 13 and Policy 15 link to NZCPS Objective 2 and indicate that in terms of outstanding freshwater bodies in the coastal environment, or outstanding coastal waters, these are to be provided an element of protection from inappropriate subdivision, use or development, as they are natural features of the coastal environment. Policy 13(2) specifies that natural character and natural features are not the same.

2.33 An estuary or coastal lagoon can be classed as a natural feature within the coastal environment, while their natural character includes the manner in which they connect to and influence connected freshwater bodies, including rivers and streams and underlying groundwater resources. The interconnections, the tidal exchange of water are part of natural processes and natural character.

2.34 In similar vein, indigenous biological diversity and what it needs to remain healthy and productive is part of the natural character of the coastal environment, as is the manner in which each specie interacts with other species. Additional to this is what each species require during their life-stage development, as a high percentage of indigenous fish in New Zealand are diadromous.

2.35 Objectives in Chapter 3.2 of the operative RPS – **The Sustainable Management of Coastal Resources** – are not explicit in requiring protection or maintenance of water quality in the coastal environment, or outstanding coastal waters. Operative Objective 6 states:

“The management of coastal water quality to achieve appropriate standards, taking into account spatial variations in existing water quality, actual and potential public uses, and the sensitivity of the receiving environment.”

2.36 Change 7 does not propose any amendments to RPS Objective 6, but adds a new Objective 11 to Chapter 3.2:

“Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.”

2.37 In my view, this does not go far enough in giving effect to the NZCPS as there is no explicit requirement for maintaining or protecting water quality in outstanding water bodies in the coastal environment, in Chapter 3.2. Several values considered to be outstanding or significant by tangata whenua and others in the community are reliant on water quality being protected, including mahinga kai, mahinga mātaītai, nohoanga, taonga rongoā, and water-based recreation. Where there are freshwater resources in the coastal environment, their health and well-being, and by association the different attributes that contribute to them, are prioritised under Te Mana o te Wai.

Specific amendments sought by TtoH and NKII

2.38 The outstanding values in the coastal environment and within catchments as identified by TtoH through our submission, are reliant in whole or in part on good water quality. These include the ‘mahinga kai’, ‘Mauri’, ‘nohoanga’, and ‘kōhanga ika’ values. TtoH ask that protection of coastal water quality in OWBs is specifically enabled through amendment to Objective 11 so it reads

“Protection of the water quality, and the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.”

2.39 Change 7 has deleted the protection of water quality from Objective LW1.1, which relegates the consideration for water quality protection in outstanding freshwater bodies, to the lower threshold in LW1.2, wherein the maintenance of the overall quality of freshwater in Hawke’s Bay is to be maintained or enhanced.

2.40 This is inconsistent with Objective 21 (no degradation of the Heretaunga Plains Aquifer System) and Objective 22 where maintenance or enhancement of water quality is required for other aquifers. It is also inconsistent with the NPSFM where the health and well-being of water bodies is to be given first priority through Te Mana o te Wai.

2.41 Consequently, TtoH also seek amendment to Objective LW1.1 so that it reads:

“protecting the water quality, and the outstanding and significant values of outstanding freshwater bodies identified in Schedule 25;”

2.42 Several of the estuaries/coastal waters identified in Schedule 25, are outstanding in their own right at either the national or regional scale, and for various reasons are also classified as Significant Conservation Areas. Te Whanganui-a-Orotū (Ahuriri Estuary), and the Waitangi, Waipureku and Porangahau Estuaries have outstanding values as habitat and breeding grounds for bird and fish species as well as for cultural and spiritual values⁸.

2.43 Estuaries provide vital links for native fish spawning and recruitment, as many indigenous fish species require access to the coastal marine area as part of their life-cycle. Good water quality and adequate fish passage is vital to their survival. For these reasons we seek the inclusion of “kōhanga ika”

2.44 For the management of natural resources in Hawke’s Bay, we have two main plans the Regional Resource Management Plan (RRMP), which covers the region except for the coastal environment, and the Regional Coastal Environment Plan (RCEP) which manages natural resources within the coastal environment which is defined in the RCEP at sections 1.1.3.2 and 1.1.3.3.

“For the purposes of this Regional Coastal Environment Plan, the HBRC has defined the Hawke’s Bay coastal environment as including:

(a) the coastal marine area

(b) any areas identified as being affected by, or potentially affected by, coastal flooding or coastal erosion and

(c) any of the following:

i) tidal waters and the foreshore above mean high water springs

⁸ Hawke’s Bay Regional Coastal Plan, June 1999; Ahuriri Estuary Management Plan, 1992; The Waitangi Tribunal WAI 55 Report, 1995

- ii) dunes*
- iii) beaches*
- iv) areas of coastal vegetation and coastal associated fauna*
- v) coastal cliffs*
- vi) salt marshes*
- vii) coastal wetlands, including estuaries and*
- viii) areas where activities occur or may occur which have a direct physical connection with, or impact on, the coast.*

For the purposes of this Plan, the coastal environment comprises all of the coastal marine area of Hawke's Bay and the coastal margin. The inland boundary of the coastal margin and the coastal environment is as shown on the planning maps."

2.45 The RPS which Change 7 seeks to amend in part, covers the whole region out to the limit of the territorial sea (12 nautical miles). Higher level policy for the RRMP and the coastal environment as defined for the RCEP differ, where the NZCPS directs protection preservation or maintenance of resources in the coastal environment, while the NPSFM now seeks the protection of the health and well-being of freshwater as a first priority. By deleting water quality from Objective LW1.1 in Chapter 3.1A and not including the protection of water quality in proposed Objective 11 in Chapter 3.2, I consider that Change 7 and is not promoting the purpose of the RMA, nor giving effect to the NPSFM or NZCPS.

Section 42A Officers' report

2.46 Some submissions have stated that there is insufficient evidence to support the outstanding water body classification for some fresh water bodies and coastal waters/estuaries. In this respect I am aware of the substantial amount of research and background work that the reporting officers and HBRC have done to assemble data on rivers, streams, lakes, estuaries, and aquifers in preparation for Change 7.

- 2.47 This includes contracted work regarding outstanding freshwater bodies in other regions⁹, perusal of numerous submissions from tangata whenua to regional and district plans and resource consent processes, Treaty claim documentation, iwi and hapū plans, and Water Conservation Orders¹⁰. HBRC have reviewed international literature.
- 2.48 The RPC and Māori Standing Committee (MSC) at HBRC have been kept aware of progress and developments with Change 7. I note that some Māori entities did not want some water bodies to be elevated over and above others given their perspective that all water resources are taonga, and should be protected to a certain degree. I respect their views.
- 2.49 I am also cognisant that legal advice was sought by HBRC around the potential risks if an outstanding freshwater bodies plan change was not publicly notified prior to TANK (Change 9) as required by Environment Court consent order through resolution of Change 5 and as stated in RPS Policy LW1A(1) and LW1A(2).
- 2.50 I am not aware of the reason or rationale for this but given the requests to the Ministry for the Environment seeking a Streamlined Planning Process for Change 9 – TANK, it is my opinion that council wished to notify Change 9 before Change 7.
- 2.51 The nomenclature used in Change 7 differs to what was agreed in terms of an “outstanding freshwater bodies plan change” and amends parts of Change 5 from “outstanding freshwater bodies to “outstanding water bodies”, so is inconsistent with the directive intent of operative Policy LW1A.
- 2.52 This creates an anomaly in that Change 7 leaves the directive policy intact, but then amends other parts of Change 5 that were only operative for one week prior to public notification of Change 7. Parts of Change 5 therefore have not been given effect to, before the RPS was amended through Change 7.

⁹ E.g. Significant Values of Wetlands and Outstanding Freshwater Bodies, The Catalyst Group, 2018.

¹⁰ Referenced in Table 1 of the Officer’s report and in paras 47 and 48.

2.53 Sections 3. 2. 8A and 3. 2. 8B in the Explanations and Reasons section of Chapter 3. 2 – The Sustainable Management of Coastal Resources, goes some way towards providing clarity regarding outstanding water bodies in the coastal environment (including estuaries) but I do not agree with the inclusion of the term outstanding water bodies in RPS Chapter 3. 1A – Integrated Land Use and Freshwater Management, as the Change 7 amendments include saline waters in a chapter for freshwater management.

2.54 I agree however that Chapter 3. 1A Integrated Land Use and Freshwater Management, needs to provide for the protection of outstanding coastal water resources from the effects of activities that affect freshwaters that then have potential to affect coastal waters like estuaries.

2.55 Para 33 of the s42A Officer’s report (OR) states;

“A core Maori belief is that no water body is more important than another and each water body has its own individual mauri or vital essence and are important for spiritual, physical and customary reasons. ”

In my experience, while some Māori may think this way today, it is not a belief common to many Māori.

2.56 Historical evidence of battles over natural resources, including locally at Te Whanganui a Orotū, Te Pākake, Pakiaka and Lake Poukawa indicate that the more important the resource was for providing sustenance and natural materials for the hapū, the more vigorously they defended it. The higher amount or degree of significance placed on a pātaka kai or mahinga kai area (forest, shellfish bed, fishery etc.), the stronger the cultural connections to that place or resource.

2.57 While tikanga Māori is enduring and relatively constant, local kawa and attitudes sometimes alter to cater for changes, for new mātauranga and adaptation to new technologies. Despite this, we respect the views of Ngai Tuhoe, Ngāti Pahauwera and Ngāti Kahungunu Wairoa Taiwhenua Incorporated who disagree with the classification of “outstanding” that then classifies one waterbody as more outstanding than another (para 34 OR).

2.58 Te Taiwhenua o Heretaunga support the concept and application of outstanding status in terms of the identification of outstanding freshwater bodies and outstanding coastal waters, and also specification of their outstanding and significant values, including cultural and spiritual values.

2.59 TToH therefore support Change 7 in terms of the above, and the identification of “outstanding water body” as quantified at a regional scale (OR para 59) and that an OWB can be part of a water body (OR para 60).

Consumptive and abstractive values

2.60 I agree with the premise, rationale, and conclusions in the OR at paras 70 – 73, in that consumptive values should not be considered as outstanding or significant values of an outstanding water body. An outstanding or significant value of an OWB should be inherent within or upon that water OWB. Once water is removed from the water body, it is no longer part of it, so the values accrued from the water use are separate from the OWB, and reliant on other factors and inputs, sometimes difficult to quantify.

2.61 Abstractive values/uses have also been sought to be included as either outstanding or significant values of outstanding (fresh)water bodies by various submitters, notably for:

- water and land use for farming
- primary production land use
- primary production water use
- primary production and associated processing and other urban activities
- water supply after removal from the (fresh)water body
- commercial and industrial use
- irrigation
- cultivation
- food production
- animal drinking water (after water is removed from the (fresh)water body)

2.62 To be realised, the values above either require removal from the relevant water body and/or the addition of other things to enable the water to attain significant value or outstanding value status. Many also require other capital expenditures.

2.63 In some instances, I agree that animal drinking water directly from a river or stream can accrue a value, but with the requirement for fencing off streams and rivers to restrict stock access, this will gradually become an irrelevant issue.

Te Mana o te Wai

2.64 Having read and discussed with colleagues the NPSFM 2020, the implementation timelines and supporting documentation, I understand the limitations for HBRC in implementing the 2020 version of the NPSFM, or parts thereof through Change 7 (OR paras 82 – 89), and in particular Te Mana o te Wai. Te Mana o te Wai (TmoTW) establishes a new hierarchy in terms of placing the health and well-being of water bodies and freshwater ecosystems as a first priority when managing freshwater resources. Economic considerations as identified in 2. 61 of my evidence are relegated to part of the third priority under TmoTW.

2.65 This is a radical difference from the current approach within the RPS and RRMP and indications from their implementation in the past, where economic and productive considerations have been prioritised and management of their adverse effects has omitted to consider cumulative adverse effects, or regarded them as something to be considered at a later date.

2.66 This indicates that where provisions in the RPS and regional plans provide for or direct protection or no degradation of natural resources, they have not always been given sufficient weight through past council decision-making on resource consent applications and renewals. In my view greater compulsion for protection is required, particularly with the advent of the NPSFM 2020 and TmoTW.

2.67 Change 7 provides such an opportunity although the identification of some significant values has been left until future regional plans become operative. This in my view, places some aspects of TmoTW at risk from being achieved. It would be more prudent for Change 7 to be amended to allow for significant values to be inserted into Schedule 25 where such values (excluding abstractive values) are already known¹¹.

2.68 Table 2A in the RPS already has a range of primary values, some of which are either outstanding or significant values, that were identified by various parties. The table is not amended by Change 7, so remains part of the operative RPS. These should be used to help populate Schedule 25, where the values apply to outstanding water bodies therein.

2.69 I agree with the officer's position that clause 3. 2 of the NPSFM 2020 *"requires the Regional 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"*, however where submissions to Change 7 have scope to support the prioritising of the health and well-being of water bodies and freshwater ecosystems, then in my view they should be accepted. There is also support through operative RPS and regional plan provisions to implement some aspects of Te Mana o te Wai already, where such provisions are directive. This appears to be supported in the OR at para 91.

2.70 I consider the last point in para 91 of particular importance. With the operative RPS required to *"be given effect to"*¹² by Change 8 (Mohaka) and Change 9 (TANK), and subsequent catchment-based plans required to be prepared and changed in accordance with the NPSFM 2020, there is the potential for Change 8 to give effect to the NPSFM 2020, but not so much for Change 9, which was notified before 04 September 2020.

¹¹ Ngaruroro Values and Attributes report, Tables 4 and 5.

¹² Those parts not amended by Change 7, or likely to be amended through consequential changes.

2.71 HBRC staff were in contact with the Ministry for the Environment (MfE) on several occasions during 2018 – 2019, particularly over use of the Streamlined Planning Process for Change 9 (TANK)¹³. Although the application was eventually declined, the action implied intent to progress Change 9 before Change 7. This had potential for influencing the consideration and protection of the outstanding values and significant values of those water bodies considered to be outstanding (for a range of attributes) in the 4 TANK catchments.

2.72 It is my understanding that throughout 2019, where a proposed plan change was not likely to substantially give effect to the upcoming NPSFM 2020, then it was not likely to be approved for a streamlined planning process, as it would need to be amended again within a relatively short timeframe¹⁴.

2.73 It seems unusual that HBRC pre-empted the NPSFM 2020 in using the outstanding water body terminology from the NPSFM in Change 7, but did not adopt the TmoTW concept or its priority setting. TmoTW was in the NPSFM 2014 (as amended 2017).

2.74 I understand the need to apply TmoTW with input from the regional community, but there are several aspects of TmoTW that are already included within regional plans that the community have contributed to during statutory processes, or within the background reports and documentation that inform such plans¹⁵.

Other considerations

2.75 In reference to the discussion in the OR at paras 95 through 103. The reasoning is sound in terms of Change 7 being required to protect the significant values of these water bodies already designated as outstanding through an existing WCO as it is a requirement of NPSFM 2020 Policy 8. The WCO on the Mohaka does not cover the whole river but includes parts of the mainstem and of the Hautapu, Ripia and Te Hoe Rivers, for a range of outstanding features – outstanding trout fishery, scenic

¹³ Minutes of RPC meeting 11 December 2019; Extraordinary RPC Agenda 18 March 2020, p5.

¹⁴ Personal comment -Independent contractor appointed to run NPSFM and TMO2W workshops

¹⁵ Mana Ake - An expression of kaitiakitanga, 2015: Ngaruroro Values and Attributes Report, 2016: Kaitiaki mō Ngā Taonga Tuku Iho, 1992.

characteristics through the Te Hoe and Mokonui Gorges, and for water based recreation from State Highway 5 (Napier-Taupo Road section) down to Willow Flat.

2.76 HBRC has been attempting to implement the NPSFM since 2012, has had several iterations of their NPSFM Implementation Programme, and the proposed amendments and officers' recommendations appear to imply further delay for due consideration for and protection of the significant values of OWBs throughout the Hawke's Bay region.

2.77 Policy LW2. 1 only specifies 3 catchment plan changes, while I understand that there are others planned for the Porangahau River and other small catchments. In my opinion, Change 7 does not give adequate consideration for these future plan changes, through requiring their significant values to be identified (where known) and protected within Change 7. This is also the case for other catchments where plan changes are either in process or proposed.

2.78 In terms of Policy LW2. 1(c), I support the elevation of outstanding values and significant values above other values identified in Table 2A, apart from those primary values in Table 2A, where these have also been identified as outstanding or significant values (from a regional perspective), and are included in or related to those values identified in the TToH/NKII submissions. These include:

- Native fish habitat in the Ngaruroro, Tutaekuri and Tukituki River catchments¹⁶;
- Trout spawning, trout habitat and trout angling values in the above catchments and in the Mohaka catchment;
- Mahinga kai, Taonga rongoā and Nohoanga values;
- Landscape (scenic) values in the Te Hoe Gorge and the Mokonui Gorge;
- Regionally significant native bird populations in the Tukituki catchment;
- Fish passage due to its association with native fish recruitment, survival and abundance; and
- Natural character

¹⁶ New Zealand Threat Classification System 24, 2017, Ngaruroro WCO Joint Witness Statement - Fish.

Restricted Discretionary and Controlled activities

- 2.79 For proposed policy LW3A – Decision Making Criteria – Outstanding Water Bodies, I consider the effects of a restricted discretionary activity, either individually or in combination with several other similar activities, as having the capacity to cause adverse effects that are more than minor.
- 2.80 Cumulative adverse effects are included in the ‘Principal reason and explanation’ section for the policy, but the omission of restricted discretionary and controlled activities somewhat undermines the ability to quantify cumulative adverse effects or address them through resource consent and decision-making processes.
- 2.81 In my opinion, proposed policy LW3A – Decision-making criteria – Outstanding Water Bodies, should include both restricted discretionary activities and some controlled activities, given the new priority setting required pursuant to the NPSFM 2020 and Te Mana o te Wai where the health and well-being of the water body is given precedence.
- 2.82 Projected plan changes will be required to give effect to prioritise according to TmoTW, and it seems inconsistent that the RPS through Change 7 does not comply when a subsidiary plan is required too.
- 2.83 The (pending) Resource Management Amendment Act 2020 promotes TmoTW in terms of freshwater planning instruments under Part 4, and they are all required to be operative by December 2026. In my opinion, our regional planning should be proactive in applying and implementing plan changes in a manner that coheres with the direction and intent of TmoTW, which would save time and significant expense through future plan change processes.
- 2.84 The NPSFM 2020 requires the insertion of specific policy and wording into regional plans (Subpart 3 Specific requirements) in relation to sections 3.22 Natural inland wetlands, 3.24 Rivers, and 3.26 Fish passage, such provisions to be included pursuant to s55(2A) of the Act i.e., without going through a RMA Schedule 1 process.

- 2.85 The directions for natural inland wetlands (3.22) require “*The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, . . .*” and for Rivers (3. 24) that “*The loss of river extent and values is avoided. . . .*”. Although there are a few exceptions, the basic tenet is clear, and the compulsory provisions imply that they have immediate effect.
- 2.86 These provisions apply to all natural inland wetlands and to rivers, whether they are identified as outstanding or not. The proposed delays in identifying and providing for significant values for outstanding water bodies until future regional plans become operative, is inconsistent with the requirements of the NPSFM through s55(2A).
- 2.87 The omission of the effects of restricted discretionary and controlled activities from the decision-making criteria in Change 7 is inconsistent with the need for integrated catchment management. The cumulative effects of activities from land use and freshwater management on our estuaries and coastal waters is well documented.
- 2.88 For proposed Policy LW3A, I concur with the officers’ recommendation to amend it with “take into account” and also in Policy LW3A.1 a) and b) so they are more succinct, and also the amendments to the second column for Item 7 in the AER Table.
- 2.89 At para 106 the OR acknowledges the different management framework under the NZCPS and that it does not specifically requires the protection of outstanding coastal water bodies. It does however direct the protection of outstanding natural character, natural features and natural landscapes. An outstanding natural feature category for identifying outstanding water bodies in Change 7, would then enable consideration of the outstanding features of a water body and link to protection of natural features in Policy 15 of the NZCPS, and inform management of these through plan changes to the RRMP and the RCEP.
- 2.90 An issue with the Change 7 definition of OWBs is that it includes OWBs in the coastal environment (e. g. The Ahuriri Estuary, Te Whakaki Lagoon) but does not include outstanding natural features. With Change 7 relying on the NPSFM direction to come

up with a definition in the early days of Change 7 development, when the plan change was targeted at freshwater bodies, the outstanding natural features in the coastal environment have been excluded. Although natural features may have elements of natural character, the two are not the same.

2.91 I ask that “**outstanding natural features**” be added to the definition of “**Outstanding water body**” in the glossary. This would help ensure that the RPS gives effect to the NZCPS in this regard.

2.92 In my opinion, when adopting a definition for OWBs for Change 7, which will then inform future plan changes (e. g. Changes 8, 10, and the RCEP review), the greater level of protection in the NZCPS for outstanding natural character (Policy 13(a)), outstanding natural features and outstanding natural character (Policy 15(a)), have not been given sufficient consideration in the Change 7 definition for “outstanding water body”. We ask that natural features be added to the Change 7 definition to assist in the protection of outstanding coastal waters and estuaries.

Further relief sought by TToH and NKII

2.93 On the version of Change 7 in **Appendix 1 – Amendments to Change 7 from Officers’ Recommendations in Part 4**. This section of my evidence includes my opinion on the OR and appendices, and specific relief sought following my consideration of these, and further discussions with TToH and NKII personnel.

2.94 Objective LW 1 – **Retain the term “freshwater” in Objective LW 1. 1; Make consequential amendments to Chapter 3. 1A in Change 7**, including to the explanatory text, for coherence.

2.95 I agree with the deletion of clause cC in Policy LW1.

2.96 For Policy LW1. 1(d) – Retain the term “**freshwater**” and the proposed section so the clause reads: “***gives effect to provisions relating to outstanding freshwater bodies arising***

from the implementation of Policy LW1A and protects the outstanding and significant values of those outstanding freshwater bodies identified in Schedule 25.”

2.97 In Policy LW1. 2 – Amend the operative clause bA to “recognise and provide for outstanding freshwater bodies and the protection of their water quality and their values.”
Policy LW1 is in a Freshwater chapter of the RPS.

2.98 For the officer’s recommendation for proposed clause bA (i), change the clause to read: “carry out an assessment which identifies any additional significant values of that outstanding water body and the spatial and/or temporal extent of those values as relevant. This assessment will include consideration of the values set out in Appendix 1 of the National Policy Statement for Freshwater Management, and any other values inherent within the water body, that are determined to be significant, taking into account local and/or regional circumstances;”

2.99 Make consequential amendments to other parts of Change 7 including to Chapter 3. 2 and Schedule 25, particularly in terms of their function and use for informing regional plans.

2.100 In view of the new clause i) in Policy LW1. 2 as recommended in the OR, requiring another phase of identifying significant values of outstanding freshwater bodies for regional plans, *include a footnote stating that this will not be required for TANK Change 9.* We have had 7 plus years of TANK processes to date, with possibly another 2 or 3 years to complete the statutory phase to enable the plan change to become operative.

2.101 Change 9 has already been notified and submissions received. TToH were contracted to provide a report on cultural values for the Ngaruroro River catchment¹⁷, and there has been close to 2 years of further discussions at RPC meetings and workshops, plus the convening of an expert panel to identify outstanding values for outstanding water bodies, some of which are located within the TANK catchments.

¹⁷ Ngaruroro River Values to Attributes Report, October 2016.

2.102 There is also scope within Change 9 and submissions received¹⁸ to include values of outstanding water bodies in decision-making processes to inform both Change 7 and Change 9. Council appears to prefer identifying and spatially defining the significant values for outstanding water bodies within the 4 TANK catchments, sometime after Change 9 achieves operative status (Change 7, Part 3, page 25). This suggests that the TANK plan change process will continue after the 10 – 11 years it will take to achieve operative status.

2.103 Include OR recommendation for Policy LW1. 2 (iA) in Change 7, with the exception of the text in iA)(iii) *“that are more than minor”*. The onus in the Act and the NPSFM is to protect outstanding values and significant values. The acknowledgement of cumulative adverse effects elsewhere in Change 7 recognises the need to consider all contributions to the loss or diminishing of values.

2.104 HBRC has not been pro-active in the consideration of and accounting for cumulative adverse effects on natural resources in their past decision-making processes. Failure to manage cumulative adverse effects on outstanding water bodies could lead to incremental degradation of the outstanding or significant values that the Act, the NPSFM and the NZCPS requires protection and safe-guarding for.

2.105 Under the Principal reasons and explanation section for Policies LW1A, LW1. 2 and LW1. 3, replace the text *“are identified during the plan development phase”* with *“are recognised and provided for”*

2.106 For Policy LW2, the reporting officer recommends adding a new clause:

“bA) Policy LW2. 1 does not apply after a regional plan implementing the 2020 National Policy Statement for Freshwater Management for the specified catchments is made operative.”

¹⁸ HBRC collation of Change 9 submissions and the Summary of submissions report. Available from HBRC website www.hbrc.govt.nz

2.107 Policy LW2. 1 is subject to achieving Policy LW1. 3, which includes reference to limits for nitrogen losses, faecal indicator bacteria and phosphorus losses from land, as well as referring to allowance for audited self-management and reviewing regional plans. Such limits are to be set while ensuring “the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water are safe-guarded”. Safe-guarding includes an element of protection.

2.108 Clause bA creates uncertainty to the policy structure and further text would be helpful. The addition of “. . . fully implementing the 2020 National Policy Statement for Freshwater Management” would be helpful, because as currently written, Policy LW2 could potentially enable the disregarding of the effects specified in Policy LW3 if the NPSFM 2020 is only partly implemented.

2.109 I support the suite of outstanding and significant values identified for the waterbodies in Schedule 25 as proposed, with the addition of the values in the TtoH and NKII submissions. **I also seek the deletion of any abstractive values.**

2.110 There are two issues here that support the deletion of abstractive values from being significant or outstanding values of a water body. There is the fact that a water body by RMA definition “*means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof that is not located in the coastal marine area.*”

2.111 Once water is removed from the water body, the purported value is no longer a value of the actual water body, but a value or result of the water use, after removal from said water body.

2.112 Another matter is that the removal of water from a water body requires a means of conveyance, which usually has several constituent parts – a well or gallery, a pump, an irrigation system and software, and perhaps a tank or cistern for storage. An irrigation system is composed of irrigation pipes and irrigators – K-line, travelling irrigator, centre pivot and the like.

2.113 The definition of “water” in the Act has a proviso or condition in that it:

“(c) does not include water in any form while in any pipe, tank, or cistern”.

So it is water when in the water body, with its significant and/or outstanding values, but when removed from the water body and on its journey through pipes and irrigation systems, it ceases to be water in terms of the Act, then it is used for specific purposes when it emerges from the system.

2.114 The hearings committee is being asked by several parties to consider that the value of the water accrued from its use after removal from the water body – following transition through an irrigation system (where it is no longer water in terms of the Act), then becomes a value of the water body itself.

2.115 In addition, there are the costs for land (owned or leased), rates and insurance, cultivation, planting, harvesting, transport and marketing, plus the costs of attaining consent to take water and record water data through telemetry. Sometimes after all these costs have been taken into account, the operator of the relevant business may make a profit. Some years they may not.

2.116 The value that is accrued may be significant or outstanding, but to quantify the value taking into account CAPEX and OPEX, would be extremely difficult and it is somewhat disassociated from the actual water body.

2.117 Recently I was informed that several orchardists were considering pulling out trees because they were unlikely to get sufficient labour this year for harvesting, given the restrictions on overseas labour due to COVID. Although I can appreciate the severity of the problem, how would one quantify the value of the water use, when it is used to grow trees, that are then uprooted due to changes in circumstance?.

2.118 In summary, I do not consider abstractive uses of water to be outstanding values or significant values of the actual water body from which the water was removed.

2.119 For the reasons included within my statement of evidence, and from my experience as a resource management consultant working primarily with Maori organisations and

tāngata whenua throughout the Heretaunga, Ahuriri, Tamatea and Tāmaki nui-a-Rua rohe, over the last 16 years, and relying on my interaction with them, I consider that Schedule 25 should include both the outstanding values and significant values listed below.

Table 2.

Outstanding water body	Outstanding value
<p>Heretaunga Plains Aquifer System</p>	<p><u>Cultural and spiritual values</u></p> <p><u>Whakapapa o te wai</u> The connectivity between the Heretaunga Plains Aquifer System and culturally significant/iconic rivers and tributaries</p> <p><u>Ki Uta ki Tai</u> The flow of water from the mountains to the sea – Including through the unique layers of strata that make up our aquifer systems</p> <p><u>Hauora o te wai</u> (In Part) <u>The unique cleansing that occurs with hydrogeology, where wai passes through the whenua and is cleansed over time and distance, then re-emerges as springs that contribute clean water to surface water bodies – to our rivers, lakes and streams.</u></p> <p><u>Muriwaihou – A traditional name given to waters in the Heretaunga Aquifer</u></p> <p><u>Other outstanding values</u> <u>Natural recharge (Natural character) – Both the recharge that the aquifer receives from the Ngaruroro and Tutaekuri and Tukituki Rivers, and the recharge it provides to spring fed streams including the Karamū and its tributaries</u></p>
<p>Karamu River</p>	<p><u>Whakapapa o te wai</u> The Karamu receives spring water from within the whenua, connecting both spiritually and physically to the Heretaunga Muriwaihou – the Heretaunga Plains Aquifer System.</p> <p><u>Ki Uta ki Tai</u> The flow of water from the mountains to the sea – From the Raukawa and Kaokaoroa Ranges through Lake Poukawa, Pekapeka and down into Heretaunga, and from Kohinerakau into the streams that feed into the Karamu.</p> <p><u>Hauora o te wai</u> In part – <u>The unique cleansing that occurs with hydrogeology, where the wai passes through the whenua and is cleansed over time and distance, then re-emerges as springs that contribute to the Karamu River.</u></p>

	<p><u>Other outstanding values</u> <u>Natural recharge (Natural character)</u> <u>Natural feature (Outstanding natural feature)</u> The largest groundwater source in the region</p>
Ngaruroro River	<p><u>Whakapapa o te wai</u> The connectivity between the Kaweka and the Ngaruroro River and through into the Heretaunga Plains and its Aquifer System, where the river is the main recharge. Then the river flowing through to Waitangi Estuary and Tangaroa.</p> <p><u>Ki Uta ki Tai</u> The flow of water from the mountains to the sea – The Ngaruroro River is one of the conduits for this physical and spiritual connection. The Ngaruroro has wāhi tapu sites within the river channel. This operates at different levels, including within indigenous biodiversity and the recruitment and health of aquatic species.</p> <p><u>Hauora o te wai</u> In part – The Ngaruroro provides healthy water to the whole of the Heretaunga Plains.</p> <p><u>Other outstanding values</u> <u>Natural recharge (Outstanding Natural character)</u> <u>Indigenous fish habitat – outstanding on a regional level</u> <u>Trout Fishery and trout habitat</u></p>
Ruataniwha Plains Aquifer System	<p><u>Whakapapa o te wai</u> The connectivity between the Ruahine and the Tukituki River and through into the Ruataniwha Plains and its Aquifer System, where along with the Waipawa and its tributaries, the two river catchments are the main source of recharge.</p> <p><u>Ki Uta ki Tai</u> The flow of water from the Ruahine and into the Ruataniwha Aquifer System which regulates the flow of water out from the Ruataniwha Plains.</p> <p><u>Hauora o te wai</u> In part – The Ruataniwha Aquifer System provides healthy water to the rest of Central Hawke’s Bay where it exits through the Turiri Range as the Waipawa and Tukituki Rivers.</p> <p><u>Other outstanding values</u> <u>Natural recharge (Outstanding Natural character)</u> <u>Indigenous fish habitat – outstanding on a regional level</u> <u>Natural Feature – Unique as it regulates the flow into the Waipawa and Tukituki Rivers after passing through the Turiri Range.</u></p>
Tukituki River and Estuary	<p><u>Whakapapa o te wai</u> The Tukituki River catchment has outstanding cultural value as it connects the hapū of Tamatea with the hapū of Heretaunga. The Tukituki and its tributaries, enable the recruitment of indigenous species throughout its catchment</p>

	<p><u><i>Ki Uta ki Tai</i></u> The flow of water from the Ruahine through the Ruataniwha Plains and down into the lower river, where it joins the ocean at Haumoana. The Tukituki River is one of the conduits for these physical and spiritual connections. It has wāhi tapu sites within the main river channel and tributaries, and on adjacent lands. These need an elevated level of protection. Maintenance of the Ki Uta ki Tai value assists with indigenous biodiversity and the recruitment and health of aquatic species.</p> <p><u><i>Hauora o te wai</i></u> In part – The Tukituki River provides healthy water throughout Central Hawke’s Bay where it exits through the Turiri Range.</p> <p><u><i>Other outstanding values</i></u> <u><i>Trout anqing; trout fishery</i></u></p>
Waipawa River	<p><u><i>Whakapapa o te wai</i></u> The connectivity between the Ruahine and throughout the Waipawa River where the wairua from the maunga is connected to the wairua of the river and tāngata whenua.</p> <p><u><i>Ki Uta ki Tai</i></u> The integrated flow of water from the Ruahine down to the ocean. The Waipawa River provides a conduit for these physical and spiritual connections. Maintenance of the Ki Uta ki Tai value assists with indigenous biodiversity and the recruitment and health of aquatic species.</p> <p><u><i>Hauora o te wai</i></u> In part – The Waipawa River provides water to the Waipawa community and replenishes groundwater further downstream.</p> <p><u><i>Other outstanding values</i></u> <u><i>Trout anqing; trout fishery</i></u></p>
All estuaries, coastal lagoons and wetlands	<p><u><i>Kōhanga ika; Mahinga mātaimai; Nohoanga/Pāhi; Mahinga kai</i></u></p> <p><u><i>Indigenous fish habitat</i></u></p>
In addition for the Ahuriri, Waitangi, Waipureku and Porangahau	<p><u><i>Bird habitat</i></u></p>
<p>Significant values for all rivers and estuaries in Schedule 25 – <u><i>Nohoanga/Pāhi; Fish passage; Fish spawning; Waahi taonga; Waahi tapu; Mahinga kai; Tauranga waka; Wai Tapu; Rohe Boundary; Kōrero tawhito; Mauri</i></u></p> <p>Significant values for surface waters and ground water - <u><i>Maramataka; Whakapapa o te tāngata; Life-supporting capacity; Taonga ronqoā; Mauri</i></u></p>	

Murphy Black

Signed: _____

Date: 12 November 2020

Maurice Wayne Black

For Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated

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Change 7 Hearings

Statement of Evidence of Maurice Wayne Black 12 November 2012

LIST OF APPENDICES

APPENDIX ONE - National Policy Statement for Freshwater Management Implementation Programme for Hawke's Bay Regional Council – HBRC, September 2012

APPENDIX TWO – Schedule I from the Regional Resource Management Plan

APPENDIX THREE – Kaitiaki mō Ngā Taonga Tuku Iho

**BEFORE THE HEARING PANEL FOR
PLAN CHANGE 7**

IN THE MATTER OF The Resource Management Act, 1991

AND IN THE MATTER OF Proposed Plan Change 7 to the Hawke's Bay Regional
Policy Statement section of the Regional Resource
Management Plan (2006)

**A STATEMENT OF EVIDENCE OF MAREI BOSTON APATU
ON BEHALF OF TE TAIWHENUA O HERETAUNGA**

**CULTURAL – PLAN CHANGE 7
12 NOVEMBER 2020**

Introduction

Ko Ruahine, Owahaoko, Puketapu ngā pae maunga

Ko Ngaruroro, Taruarau, Ikawātea ngā awa

Ko Kuripapango ngā korero nehera

Ko Owahaoko, Timahanga, Omahaki, Kohurau, Otamauri, Matapiro, Maraekākaho, Ohiti-Waitio, Ngatarawa, Heretaunga ngā whenua

Ko Ngāti Hinemanui me Ngai Te Upokoiri ngā hapū

Ko Heretaunga Haukunui, Ararau, Haaro Te Kaahu, Takotonoa, Ringahora

Ko Ngāti Kahungunu te Iwi

Ko Kahuranaki, Te Karanemanema o te Mata o Rongokāko, Kohinerakau ngā pae maunga

Ko Tukituki te awa

Ko Takaparata te taniwha ngā korero nehera

Ko Te Mata me Te Karamu ngā whenua

Ko Ngāti Hori Ngāti Hawea, Ngāti Ngārara, Ngāti Te Rehunga ngā Hapū

Ko Ngāti Kahungunu te Iwi.

1. My full name is Marei Boston Apatu.
2. My primary hapū / iwi affiliations are Ngāti Hori, Ngāti Hawea, Ngāti Hinemanu me Ngai Te Upokoiri, Ngāti Marau, of Ngāti Kahungunu descent. I reside in Heretaunga and I have lived in Waipatu all my life. I also have whānau affiliations to the Tamatea/Central Hawke's Bay district in particular to the Tukituki awa.
3. From my ancestral links to Ngāti Hori, Ngāti Hawea, Ngāti Hinemanu me Ngai Te Upokoiri, I derive my cultural connections to the Heretaunga Plains Aquifer System and the Ngaruroro River, its main source of recharge. These hapū also have connections to the Karamū and Tukituki rivers.

4. I am also connected through whakapapa to Ngāti Marau. Along with my Ngāti Hawea, and Ngai Te Rehunga links I have kaitiaki connections and obligations to the Tukituki River.
5. I have lived in Waipatu all my life, the green belt of the Heretaunga Plains, was raised by my Kuia Lydia Kingi (Ngāti Marau) and Koroua Jack Nepe Apatu (Ngāti Marau, Ngāti Hinemanu, Ngai Te Upokoiri, Ngāti Hori, Ngāti Hawea, Ngai Te Rehunga, Ngāti Ngārara).
6. The name Waipatu denotes the 'first strike', which commemorates an historic event to tap one of the earliest wells drilled into the Heretaunga Aquifer System.
7. I have been influenced by many of my kaumātua and pakeke through the transfer of mātauranga Māori me nga tikanga (cultural knowledge and practices) of our hapū.
8. I am one of two Chief Executives at Te Taiwhenua O Heretaunga ("TToH") with direct responsibility for Te Manaaki Taiao Unit, which manages a community development portfolio including resource management and environmental support, working closely with Marae/Hapū and TToH partners to ensure our values are considered and incorporated into long term strategies and planning for our region. I hold a Masters' degree in Māori Asset Management from Te Wānanga o Raukawa, completed in 1999, and I gained certification under the Ministry for the Environment's Making Good Decisions programme in September 2014 and have completed further courses valid to February 2021.
9. Over the last 25 years I have held elected positions to TToH Board of Trustees, the Hawke's Bay Cultural (Museum) Trust, and Owhaoko C Lands Trust, where I had a governance role over millions of dollars' worth of assets and provided cultural and strategic advice and input to decision-making.
10. I am a current member on the Hastings District Council Takoto Noa Māori Standing committee, a member of the HDC District By-Law committee, Chair of the Joint Tangata Whenua Wastewater Committee, and a past member on the Napier City Council Kaitiaki Committee.

11. I am a current member on the Hawke’s Bay Regional Council’s Māori Standing Committee, held positions on the HBRC Asset Management and Biodiversity Committee, and the Environment Committee¹. I was the regional delegate for the National Federation of Māori Authorities (FOMA) for the Takitimu District.
12. From 2003 to 2009 I held the position of Project Manager for He Toa Takitini, now referred to as the Heretaunga Tamatea Settlement Trust (HTST) the mandated entity that progressed our historical treaty settlement claims with the Crown.
13. TToH is one of six Taiwhenua that were established in 1988 and is affiliated to Ngāti Kahungunu Iwi Incorporated (“NKII”). TToH is the largest of the six Taiwhenua, representing 17 marae in the Heretaunga region and has over 10,000 registered members. The designated area for Te Taiwhenua o Heretaunga in Ngāti Kahungunu extends from the Ngaruroro River in the North, to Te Aute Trust Rd in the South, from Kairākau on the East Coast, inland to the Ruahine Ranges in the West.
14. Each Taiwhenua is represented on the NKII Board, and participate in and contribute to, Iwi-wide issues and developments. NKII is the mandated iwi organisation for the purposes of the Māori Fisheries Act 2004, and a registered iwi authority for the purposes of the Resource Management Act 1991. The role of NKII, in part, is to advocate for pan-iwi issues and support and represent the collective issues of the six Taiwhenua in the Ngāti Kahungunu rohe. TToH also operates independently on some matters, including social and health programmes, and we co-operate with NKII through Te Manaaki Taiao, our environmental unit.
15. Te Manaaki Taiao is a strategically focussed unit that:
 - (a) Supports Marae/Hapū in their role as kaitiaki in managing and responding to resource management needs, aspirations and pressures;

¹ Some regional council committees have been restructured under different names.

- (b) Coordinates the ongoing identification and prioritisation of Māori rights and interests in resource management objectives and goals; and,
- (c) Facilitates the integration of Māori priorities into regional planning and development initiatives with local government and stakeholders to provide liaison, advisory and consultancy services to Marae/ Hapū and local government in accordance with the Resource Management Act 1991, Local Government Act 2002 and their subsequent amendments.

Expert Code of Conduct

16. I have read the Code of Conduct for Expert Witnesses in section 5 of the Environment Court's Practice Note 2011. I agree to comply with that Code of Conduct. Except where I state that I am relying upon the specified evidence of another person, my evidence in this statement is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions which I express.

Scope of Evidence

17. My evidence will cover:
- a) Te Whare Korero Whakapapa connections of Ngāi Te Upokoiri and Ngāti Hawea to the areas where the Heretaunga Plains Aquifer System is located;
 - b) Historical and cultural values that tangata whenua have with these lands and with the Ngaruroro, Karamū and Tukituki Rivers and the Heretaunga Plains Aquifer System, and
 - c) What I consider to be the outstanding values and the significant values of these freshwater resources from a cultural and/or spiritual perspective, in accordance with tikanga Māori.

A. Te Whare Korero Whakapapa connections of Ngāi Te Upokoiri and Ngāti Hawea to the areas where the Heretaunga Plains Aquifer System is located;

Te Whare Korero (metaphoric visual language of our history) refers to the following:

18. In Te Ao Māori (the Māori world) and our perception of the natural environment we see it as the physical embodiment of atua (celestial beings) with the topography of the whenua (terrestrial) often being explained as the result of various actions of our ancestors. As tāngata whenua, the physical and spiritual aspects of the environment are inseparable and give rise to their status as “taonga tuku Iho”.
19. The protocols governing how Māori treat and interact with the land, water, and other natural resources are based on this world-view. The protocols were transferred from birth, through teaching tools such as waiata, parables, story-telling, pēpeha, whakataukī, wānanga, and allegorical or symbolic names and descriptions expressing personification to demonstrate applied practices for kaitiaki;
20. The kaitiakitanga guidelines are for everyone in our whānau/hapū. For example, to guard against abuse of the environment, our Rangatira applied non-negotiable restrictions such as Tapu and Rāhui (ban, restriction) to protect people and environmental resources from natural or spiritual mishap, human misuse and sometimes the potential to abuse.
21. There is a rich inheritance and whakapapa connecting Māori to their own mātauranga and the source of this cultural knowledge.
22. The river system, Ngā-ngāru-o-ngā-ūpoko-roro (Ngaruroro) has a mauri, a spiritual life force, which supports a vast natural habitat, above and below the whenua. Throughout its meanderings, its spirit is replenished and fed with the mauri of the tributaries and the lands they come from, which unite to contribute to its physical reality and state.
23. From the Kaimanawa ranges, it steers a course south-east to enter the Heretaunga Plains and feeds into the Heretaunga aquifer system, then to Waitangi (near Clive today) where a mauri called Moko tuararo ki Rangātira, was placed by our tupuna. The

contemporary name of Ngaruroro has replaced the original name bestowed by our illustrious ancestor and explorer Mahu Tapoanui, who witnessed the abundance of Upokororo swimming beneath the surface of the river, that created ripples and small waves as they swam upstream. Whitebait were referred to as upoko-roro because the head or upoko being transparent, you can see their brain (roro) inside.

24. Another tupuna from around the period 1400-1450, was Tamatea Pokaiwhenua, who with his son Kahungunu, began an epic journey of exploration. Starting at Otiere in Te Whanganui a Orotū, they gathered patiki (flounder), kuku (mussels), freshwater koura and lizards. After placing them into calabashes they headed up the Ngaruroro, our first record of aquaculture or translocation. As father and son traversed the land, they named many places along the river. Numerous Māori place names for locations, natural features and springs along the river that are still in use today, date back to Tamatea's journey.

B. Cultural values that tangata whenua have with these lands and with the Ngaruroro, Karamū and Tukituki Rivers and the Heretaunga Plains Aquifer System

25. The word "value" comes from western economic theory². Its use within resource management tends to imply that it can be traded alongside other "values". When used to express things specific to Māori it can impose a constraint or restriction on how it is used or applied in terms of our cultural or tikanga Māori relationships with natural resources. Often a word in te reo Maori refers to a concept, a principle or an action, as well as a value. For example, mahinga kai can be an area, a site, the activity of growing, gathering and/or preparing kai. Within our regional plan the meaning is reduced to "food production"
26. The following whakataukāi provides an example of the Māori world view of one natural relationships to inform, guide or minimise risk in nature. It evolved from remembering and respecting the many children of Ranginui and Papatūānuku.

E kore a Parawhenua e haere ki te kore a Rakahore

Parawhenua will not come out in the absence of Rakahore.

² Personal comment - Dr Anthony Cole

27. Parawhenua-mea is the personification of water and mountain streams, while Rakahore is the personification of rocks. The whakatauakī means that mountain springs and streams would not flow without the solid rock from which they issue, as the two are reliant on each other. Parawhenua-mea is also one of the atua of deluge and defacement in nature, related to storms and flooding, and was one of the wives of Kiwa (as was Hinemoana).

28. This whakatauakī supports the relationship embodied in the concept and value, Ki Uta ki Tai (from the mountains to the sea). All natural elements are interdependent to a certain degree, as each are overseen by the atua, the children of Rangi and Papa, and these relationships must be upheld and continued to maintain integrity within the natural world. To eliminate or diminish one can cause an imbalance, thus creating the potential to cause harm to others. The health and well-being of the Ngaruroro, the Karamu and the Tukituki Rivers would be diminished if this balance is not maintained and the Ki Uta ki Tai principle value upheld.

Whakapapa

29. From a cultural and spiritual perspective, whakapapa underpins everything. It applies to both the spiritual realm and the physical reality, to the celestial and the terrestrial. Whakapapa expresses whānau and hapū origins and is the source of much whaikōrero on our marae. It gains expression in the carvings in our whare tupuna.

30. Whakapapa also applies to the physical environment, to our rivers, lakes and wetlands, to the manu (birds) that inhabit the ngāhere, our river valleys and seashores. From the atua with their responsibilities for different elements or realms within the natural world, to the ancestral linkages of whānau and hapū, to whakapapa o te wai. Whakapapa also applies to the fish and the different life stages as they develop, to the insects, and it connects to the expression and manifestation of mauri within our freshwater resources.

31. Whakapapa o te wai – acknowledges and respects the origins and connections between different waters throughout a catchment and their discharge into the oceans, acknowledging that the health of the waters in one place is reliant on many different things and requires an holistic form of management that respects the whakapapa connections within the wai. Our rivers connect to our aquifers through their recharge zones/areas and through springs. The Heretaunga Aquifer interacts with the Ngaruroro, the Tukituki, the Karamū and many of their tributaries. The relationships are derived through whakapapa or te wai.
32. Whakapapa o ngā ika – The various species of fish that use and reside in our rivers and streams require the presence of water of sufficient quantity and quality to enable them to access different parts of the rivers and streams, and the estuaries and coastal waters during seasonal migration periods. Our tuna (eels) have different life stages from when they enter our rivers as glass eels, gaining colour to progress to elvers, then juveniles before maturing. Different types of habitat are necessary to protect the young from excessive predation.
33. The different life-stages of native fish reflect their whakapapa, and they are part of the whole ethos within mātauranga Māori. As indigenous fish grow, they transform from one life stage to another. Their health and well-being, their behaviours and their abundance are celebrated in the pēpeha and whakataukī of our marae/hapū.
34. Some native species are threatened and have a higher sensitivity to risk due to changes in their natural environment. The panoko or torrentfish which prefers swift flowing waters and is present in different reaches of the Ngaruroro is one of the most highly threatened species. In my opinion, increased habitat protection is one method to assist in the recruitment and retention of torrentfish. The acknowledgement of whakapapa o te wai as a value in Change 7, would assist with the recruitment and retention of native fish species.
35. The Tukituki is regarded as an awa tūpuna (ancestor). The health of the awa is integral to the spiritual and physical health of hapū members who have whakapapa connections to the whenua and waters of the Tukituki catchment. It provides the hapū with a sense

of identity and interconnectedness as it flows through their lives. The whakapapa within the river and its many tributaries is reflected in the whakapapa and whanaungatanga of tangata whenua.

36. The Ruataniwha Plains Aquifer System is a unique part of the Tukituki catchment. Lying west of Waipukurau it contributes to the flow of the Tukituki River and its main tributary the Waipawa River. as the groundwaters rise from the aquifer, they feed into the two rivers that then flow through the hills between the Ruataniwha and Takapau Plains and the rest of Central Hawke’s Bay before entering Heretaunga. Is insufficient water is left in the Ruataniwha Aquifer, then the flows into the Tukituki and Waipawa Rivers diminish.
37. Traditional kōrero relates that the channels through the hills where the rivers now flow, were created by the taniwha that used to dwell in the large lake that once lay across much of the Takapau Plains. The rising landscape at the southern end of the plains (south of Snee Road) was once the edge of the former lake.

Taonga tuku iho

38. The physical and metaphysical aspects of waterways in Māori world views are inseparable, giving rise to their status as “taonga tuku iho”. This term is also inclusive of freshwater resources, and the mahinga kai areas and sites that they contain. other taonga are our various waahi tapu and waahi taonga sites within our river catchments. With a long history of settlement, rich oral traditions are associated with these sites and there is evidence of longstanding customary use of both the rivers and streams, and what they contain.

Waahi Tapu

39. Ngāwhakatātara is an Island Pā and waahi tapu, situated approximately 20kms upstream of Red Bridge. The Pā site is a former island fortress, and at one time was completely surrounded by the waters of the Tukituki. Today the Tukituki flows mainly on the eastern side, with flows on the western side diminished due to the accumulation of gravels.

40. The wairua from Ngāwhakatātara emanates outwards from the island, into the river and the surrounding landscape. The wairua from the river surrounds the pa site and helps to protect it.
41. Te Papa-o-tihi is an ancient feature of the Tukituki awa situated in the proximity of Red Bridge on the Waimarama Rd. At this location are prominent white rocks associated with an incident recorded in our tribal history. Historical traditions and kōrero makes reference to the death of a woman, who was transformed into one of the rocks by one of our tupuna who had been studying at one of the nearby whare wānanga.
42. Several traditional pa were located alongside or within close proximity to our major rivers or their tributaries. Also within the Tukituki catchment, Ngaruahikapuku is pa site at the top of the cliffs at Horseshoe Gully about 10kms from Red Bridge. Overlooking the Tukituki, its wairua and spiritual power remains within the landscape and the adjacent riverbed.
43. There are numerous other waahi tapu recorded along with their locations, in the Hastings District Plan. To assist the hearings' panel, I have attached Appendix Two to my brief of evidence showing a list of those waahi tapu and waahi taonga I consider relevant to these proceedings and the TToH submissions, along with their approximate locations.
44. Although now separated in terms of regional planning, the whakapapa of the Karamū and Ngaruroro are intertwined and the connections between the Karamū and the Ngaruroro remain strong, with the Karamū main stem being the former bed of the Ngaruroro River, with many sites of Māori occupation along its banks.
45. In addition, there are recorded urupa, battle sites, mahinga kai sites and tauranga waka along both the Karamū and the Ngaruroro and their tributaries. Today the Ngaruroro continues to recharge the Heretaunga Aquifer which is the main contributor to the Karamū River as it supplies recharge to the Karamū through its many puna (springs).

46. Where there are former pa sites, battle sites and urupa as identified in Appendix Two, I consider them to have outstanding cultural and spiritual values from a historic heritage perspective. For the other sites and areas in Appendix Two of my evidence, I consider their cultural and spiritual values to be significant values.

Ki Uta ki Tai

47. The Ki Uta ki Tai (“mountains to the sea”) principle and value is an acknowledgement of the whakapapa and interconnectedness between the maunga where our awa originate, and from their source flowing through and under the whenua, down to the sea. Ki Uta ki Tai respects the whakapapa and integrated nature and within our river catchments.

Mahinga kai

48. Mahinga kai sites and areas are prolific throughout the Ngaruroro, Karamū and Tukituki catchments. Mahinga kai is also an action or activity, the practice of harvesting or gathering kai. It includes the associated practices of food preparation – both cooking and preserving of kai.
49. Mahinga kai values have been diminished in the lower Ngaruroro River and its tributaries as well as the mid sections of the Tukituki awa and its tributaries. The exclusion of tangata whenua and mātauranga Māori from management has resulted in reduced wellbeing, lower diversity of diet from natural resources, reduced transmission of mātauranga Māori and harvesting/preserving technologies, reduced traditional management of and connection with each other and with the environment.
50. This sometimes culminates in rāhui (temporary closures). Species affected by poor management include kākahi (due to riverbed disturbances, sedimentation and diminished populations of native fish species), much reduced (freshwater) koura, and water cress being displaced by cow cress.
51. I am a hunter and gatherer of kai both on, in and around waters and land and have practised the values of mahinga kai over many decades. Like many of our whānau from local and distant marae / hapū, we converge annually to do our fishing from the mouth

of the Tukituki awa at Haumoana through to an area off Tenants Rd referred to as Te Ahikoura (the place to fire and cook crayfish).

52. Places for the regular gathering and cooking of kai along our awa are referred to as “pahi³” or “nohoanga”. Over the years they gain their own wairua and mauri as our whānau come to associate them with a sense of nurturing and well-being, or a place of solace and contentment.
53. The abundance of freshwater fish species from Waipureku to Te Ahikoura, a distance of some 4 -5 kilometres upriver, is well known. The fish species are predominantly:
- Kahawai
 - Tuna – eel
 - Inanga - whitebait
 - Kokopu – smelt and cockabully
 - Patiki - flounder
 - Kanae - mullet
 - Kātaha - herring
 - Koura – freshwater crayfish
 - Shrimp
54. Kōkopu or smelt were fished on the Tukituki upstream to Waipawa in the 1950’s but now populations have diminished to the stage where it is rare to catch enough to feed a family. We need to ensure greater abundance of freshwater fish particularly within the Waipureku Estuary up to the Tenants Rd area and beyond.
55. Like the Ngaruroro the Tukituki awa has provided my whānau and hapū with sustenance over many decades. Traditionally we would not need to travel great distances to get our kai. It was virtually under our noses.
56. Our whakatauaikī tells of Heretaunga haukunui, or Heretaunga of the “life giving dew”, a place where anything and everything would grow well, both on the whenua and within our awa. The life-giving dew is the first manifestation of the relationship between the wai, the whenua and Rangi (water, the land, and the sky) and therefore represents all waterways within our rohe.

³Defined here as a temporary camping place, but also as a place of learning, for teaching our young ones.

57. This special relationship is etched and imbued within our pēpeha, in our tribal identity and who we are. Where our waters flow from. What our awa and maunga are, and more importantly for whom we seek to uphold our values for - The next generation and those to come. To leave in the care of the next generation an environment that is safe and healthy that provides for their sustenance and wellbeing.
58. We ask that for the purposes of Change 7, that the broader definitions and connections of “mahinga kai” are acknowledged and included in the glossary. The current glossary meaning for mahinga kai⁴ in the RPS and RRMP is insufficient.

Mauri

59. Mauri or spiritual life force comes from the realm of the creator, and as such requires an ethical approach within planning constructs. The Regional Resource Management Plan already contains requirements for specific consideration of mauri through the management of land use and development and freshwater⁵ and direction for regional plans⁶.
60. A river is a living being. It has mauri – spiritual life force – that weaves itself through the people, connecting the people with their river. Because it nurtures and sustains them it was given the utmost respect. Any damage done to the river is perceived as harm done to the mauri of the river and harm done to mana and health of our people.
61. Of absolute importance to Ngāti Kahungunu is the preservation and protection of mauri. To see to the preservation and protection of mauri is to provide for conservation of bio-diversity, the outcomes of which are the restoration and regeneration of ecosystems.

⁴ In the operative Regional Resource Management Plan “mahinga kai” means “food production”.

⁵ Regional Policy Statement – Objective LW3 (c).

⁶Regional Resource Management Plan, Policy LW1 (3) (b).

Heretaunga Aquifer or Muriwai hou

62. Local tangata whenua refer to the Heretaunga Aquifer as Haukunui or muriwai hou. Muriwai hou or the aquifer waters are likened to the amniotic fluid within the womb. It is in this context that the protection of the Heretaunga aquifer (Muriwai hou) should be regarded the same as the care and protection provided by a mother for her unborn child.
63. In my opinion, the Heretaunga Plains Aquifer should be classified as an Outstanding Water Body from a cultural and spiritual perspective. In addition, I believe that the following freshwater bodies and estuaries should also be included due to the values inherent within them or that they are used for in their natural state. I believe that the water bodies specified in Appendix One attached to my evidence should be included in Change 7 as outstanding water bodies. In addition, that their outstanding values and significant values as noted, be recognised and provided for in the plan change so as to inform the development of regional plans and plan changes, and their subsequent decision-making processes.

Signed:



Date:

Friday, 13 November 2020

Marei Apatu

Te Kaihautū

Te Taiwhenua o Heretaunga

Statement of Evidence of Marei Boston Apatu - Change 7 – Outstanding Water Bodies

APPENDIX ONE - List of Outstanding Water Bodies and their values

Outstanding Water Body	Outstanding Value ⁷	Significant Value
Ngaruroro River ⁸	Ecology - Native fish Ecology – Bird habitat Kōhanga ika Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga Whakapapa o te Wai Ki Uta ki Tai	Mahinga kai ⁹ Nohoanga Tauranga waka Aquifer recharge Mauri
Heretaunga Plains Aquifer System	Ecology – Stygofauna Whakapapa o te Wai Cultural/Spiritual - Waiora Cultural/Spiritual - Mauri	Ki Uta ki Tai Mauri
Tukituki River and Waipureku Estuary ¹⁰	Ecology - Native fish Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga Whakapapa o te Wai Ki Uta ki Tai Ecology – Bird habitat	Mahinga kai Nohoanga Mauri
Ruataniwha Plains Aquifer System	Ecology – Stygofauna Whakapapa o te Wai Cultural/Spiritual - Waiora Cultural/Spiritual - Mauri	Ki Uta ki Tai Mauri
Karamu River	Ecology - Native fish Ecology – Bird habitat Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga Whakapapa o te Wai Ki Uta ki Tai	Mahinga kai Nohoanga Puna-wai Mauri Tauranga waka
Lake Oingo, Lake Runanga, Huri moana Swamp, Kautuku Swamp	Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga	Mahinga kai Nohoanga
Waingongoroa Stream, Pekapeka Swamp	Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga	Mahinga kai Kōhanga ika
Ahuriri Estuary	Cultural/Spiritual–Waahi Tapu Cultural/Spiritual-Waahi Taonga Ecology – Kōhanga ika, Bird habitat	Tauranga waka

⁷ From a regional perspective

⁸ Including Waitangi Estuary from mean high water springs up to source (whole of river)

⁹ As defined in my evidence

¹⁰ From mean highwater springs up to a point one kilometre upstream from Ngāwhakatātara.

Statement of Evidence of Marei Boston Apatu - Change 7 – Outstanding Water Bodies

APPENDIX TWO

Waahi Tapu sites and areas and Waahi Taonga from Hastings District Plan

SITE	MAP REF ¹¹	LEGAL DESCRIPTION	SIGNIFICANCE	LOCATION
W1	52	Korongata 2B4 Blk II Te Mata SD Korongata IB Blk II Te Mata SD	Baptisms in river	Bridge Pa
W5	43	Part Lot 2 DP 13597, Sec 1 SO 10635	Old Kainga, fishing village	Haumoana
W6	43	Pt Lot 89 Deeds Plan 504 Blk III Clive SD - Reserve 26	Mahinga Kai	Haumoana
W7	43	Pt Lot 3 DP 11790 Blk II Clive SD	Rangatira – Special Island	Haumoana
W8	43	Lot 3 DP 11790	Old Pa Site	Haumoana
W9	43	Sec 1 SO 10830	Pa Site - Kauhanga	Haumoana
W10	42, 43	Riverbank – Part Sec 12 Blk III SD	Mahinga Kai	Haumoana
W12	34	Pt Pakowhai Maori Reserve 4 Blk XIII Heretaunga SD	Urupa	Pakowhai/Whakatu
W13	33, 34	Pakowhai 5C1, 5B2, 5A1 Blk XII Heretaunga SD Lot 1 DP 17171 Blk XII Heretaunga SD Sec 1 SO9684 Blk XII Heretaunga SD Res 28 Pakowhai 5A2 5A3 Blk XII Heretaunga SD Part Pakowhai Maori Reserve 1; Part Pakowhai Maori Reserve 2; Sec 1, Sec 2 and Sec 3 SO 10742; Part Pakowhai Maori Reserve 3; Pt Lot 1 DP 5302; Pakowhai 5A2 Sec 1 SO 9684 Pakowhai 5B3 Pakowhai Maori Reserve 5C	Battlefield - Urupa	Pakowhai/Whakatu
W14	41	Pt Mangateretere West Blk X Blk XII Heretaunga SD Lots 1 3 DP 13557 Lot 3 15 Esplanade Res Blk XII Heretaunga Lot 2 DP 12384 Lot 2 DP 13557 3 Blk XII Heretaunga SD	Battlefield - Urupa	Pakowhai/Whakatu
W15	35	Riverbed	Mahinga Kai -Tauranga Waka	Pakowhai/Whakatu

¹¹ The map reference is to the number of the map contained in the Hastings District Plan.

SITE	MAP REF	LEGAL DESCRIPTION	SIGNIFICANCE	LOCATION
W16	35	Riverbed	Mahinga Kai -Tauranga Waka	Pakowhai/Whakatu
W18	42	Riverbed	Mahinga Kai -Tauranga Waka	Pakowhai/Whakatu
W19	41	Lot 1 DP 334867, Lot 3 DP 23973, Lot 2 DP 24935 Blk XVI Heretaunga SD, Lot 11 DP 23775 – Esplanade Reserve	Old Pa Site – Te Ngaue Pa	Pakowhai/Whakatu
W20	34	Lot 2 DP 7221, Lot 1 DP 24935 Blk XVI Heretaunga SD, Lot 1 DP 334867, Lot 3 DP 23973, Lot 2 DP 24935 Blk XVI Heretaunga SD	Mahinga Kai - Tauranga Waka	Pakowhai/Whakatu
W21	18	Secs 11 13 15 SO 5677 Secs 1-4 SO 10870 Blk VI Te Mata SD, Sec 9 10 12 16 Blk VI Te Mata SD, Pt Lot 4 DP 5062 A on SO 10016 Blk XII Te Mata SD	Pa Tuna – Waka Reserve	Pekapeka Swamp
W26	86	Riverbed	Waingongoroa - wahitohi, makikau	Waimarama
W32	41	Lot 2 DP 22494 Blk XVI	Old Pa Sites, Urupa, Pa Site	Ruahapia
W33	41	Karamu AYIB, AYIA, AY2 Blk XVI Heretaunga SD	Tauranga Waka	Ruahapia
W36	48	Karamu C2C2B5 Blk XVI Heretaunga SD	Tauranga Waka - Mahinga Kai	Waipatu
W37	48	Karamu C2C2B5 Blk XVI Heretaunga SD	Urupa - Pareranui	Waipatu
W39	48	Pt Lot 2 DP 11378 Pt Sec 21 Blk XVI	Karamu Pa Site	Waipatu
W51	73	Riverbed	Bathing place of Hinetemoa	Paki Paki
W53	78	Riverbed	Special Sands - Taraia's Dog	Paki Paki
W55	78	Peka Peka 2A3C Blks I VIII	Old Pa Site - Mawhai	Paki Paki
W56	24	Lot 2 DP 20301 Lot 1 DP 23741 Lot 1 DP 24033 Omahu 254B 2D11 Pts 2D10B 2D14 Blk X Heretaunga SD	Lake and Edges	Omahu
W57	24, 30	Lot 1 DP 14007 Blk X Heretaunga SD, Lot 1 DP 1409 Blk X Heretaunga SD interest in R/W DP Easement DP 28342, Lot 2 DP 16411 Blk X Heretaunga SD interest in R/W Easement DP 28342	Puketapu - Battlefields, Old Pa Sites, Burial Caves	Omahu
W58	15	Lot 3, 8, 2 DP 17585 Blk X	Lake, Swamp and Edges	Omahu

SITE	MAP REF	LEGAL DESCRIPTION	SIGNIFICANCE	LOCATION
W66	14	Lots 1-2 Pt 3 DP 14778 Omahu 2A2B Lot 2 DP 17039 Omahu Pt 2B Blks IXX Heretaunga SD Ohiti Waitio 3A Blk IX Heretaunga SD Ohiti Waitio 1B2Blk IX Omahu 4C13A, 43C13B, 4C5, 4C4, 4C6, 2C2, 2A2C, 1B3B6B3, Lot 1 DP 23947 Blk IX Heretaunga SD Awahuri Ohiti Waitio 5A Lot 6 DP 23296 Blk XII Matapiro SD Pt Awahuri MI 762 Lots 2 3 5 DP 23491 Blk IX Heretaunga	Lake and Edges - Burial Sites	Omahu
W67	14	Omahu 3B13B2B Blks VI X Heretaunga SD Lots 17, 18 19 DP 3099 Blk X Heretaunga SD Lots 1 2 DP 24466 Pt Lot 16 DP 3099 Blk X Heretaunga SD Omahu 2D7 3DBI 3CB4, 3CB5 Blk X Heretaunga SD Lots 19 22 25 Pt 20 DP 3630 Lot 1 DP 6446 Blks V VI Heretaunga	Lake and Edges - Burial Sites	Omahu

National Policy Statement for Freshwater Management Implementation Programme for Hawke's Bay Regional Council

13/27



SAFEGUARDING YOUR ENVIRONMENT

KAITIAKI TUKU IHO



Adopted: September 2012
SD 12/24
HBRC plan No. 4426



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SAFEGUARDING YOUR ENVIRONMENT + KAITIAKI TUKU IHO

Strategic Development Group
Technical Report

National Policy Statement for Freshwater Management Implementation Programme for Hawke's Bay Regional Council

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Reviewed By:

Approved:
Helen Codlin, Group Manager - Strategic Development

September 2012

SD 12/24

HBRC Plan Number 4426

Reviewed: _____

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Purpose

The purpose of this Implementation Programme is to outline the staged implementation of key projects that the Hawke's Bay Regional Council will undertake to implement the 2011 National Policy Statement for Freshwater Management (NPSFM).

The Regional Council is required to prepare and notify this Programme in accordance with Policy E1 of the 2011 National Policy Statement for Freshwater Management¹.

Context

Freshwater is one of our region's most precious natural resources and much of the Regional Council's work revolves around it. In May 2011, the Government introduced the National Policy Statement for Freshwater Management (NPSFM). The NPSFM sets a new direction for improving water quality and protecting life in our rivers, lakes, streams and aquifers. For the most part, it is the Hawke's Bay Regional Council's responsibility to implement the NPSFM as it relates to our region. The NPSFM does not specify exactly how it shall be implemented, nor how policy statement and plans should be amended as that is for each regional community to determine for themselves.

¹ NPSFM Policy E1 reads:

- a) *This policy applies to the implementation by a regional council of a policy of this national policy statement.*
- b) *Every regional council is to implement the policy as promptly as is reasonable in the circumstances, and so it is fully completed by no later than 31 December 2030.*
- c) *Where a regional council is satisfied that it is impracticable for it to complete implementation of a policy fully by 31 December 2014, the council may implement it by a programme of defined time-limited stages by which it is to be fully implemented by 31 December 2030.*
- d) *Any programme of time-limited stages is to be formally adopted by the council within 18 months [ie: by 12 November 2012] of the date of gazetting of this national policy statement, and publicly notified.*
- e) *Where a regional council has adopted a programme of staged implementation, it is to publicly report, in every year, on the extent to which the programme has been implemented.*

Key elements already in place

In Hawke's Bay, implementation of the NPSFM does not start from a blank canvas. The Regional Council has significant elements in place that give effect to the NPSFM. Some of these elements² include:

- Operative second generation Regional Policy Statement (first in New Zealand to do so). The RPS is included within the 'Regional Resource Management Plan'.
- Operative second generation combined regional plan ('Regional Resource Management Plan').
- Monitoring strategies are in place that form basis of the state of the environment programmes and reporting of monitored trends in our waterbodies.
- A management plan is in place for the Karamu Stream to improve drainage and water quality.
- Investments in forestry to enable wastewater to be removed from influencing groundwater and surface water in Mahia.
- Irrigation user groups have been set up by irrigators with Regional Council assistance in the Ruataniwha, Ngaruroro and Twyford areas. The initiative is intended to ensure water is used efficiently, and in some cases, transferred between users where this will result in greater efficiencies and less pressure on the water resource.
- Change 4 (Managing the Built Environment) publicly notified. Change 4 amends the RPS to introduce policies to guide decision-

making regarding urban development and the strategic integration of infrastructure. This is particularly relevant to NPSFM Policy C2.

- Regional Planning Committee³ formed and operating June 2012 as the model (preferred by the Crown, Regional Council and majority of Treaty Claimant Groups in Hawke's Bay) of co-governance for natural resource management in our region. This is particularly relevant to NPSFM Policy D1.
- Nine Treaty Claimant Groups will be represented on Regional Planning Committee.
- Hawke's Bay Land and Water Management Strategy adopted 2011.
- Collaborative processes and numerous stakeholder groups active in various catchments across our region (for example: Taharua Stakeholder Group, Ruataniwha Stakeholder Group).
- \$3.2 to \$4.1 million investment over next 10 years (2012-22) into scientific data collection, analysis and reporting.
- Regional assessments of values of rivers completed using RiVAS methodology⁴.

² The Hawke's Bay Regional Council's Strategic Plan (HBRC Plan number 4282) adopted in October 2011, identifies a more comprehensive listing of key achievements under the headings of land; water quality; water allocation; water security; natural hazard management and infrastructure; people and communities; foresight and strategies; investment for sustainable regional growth; strategic alliances; and fit for purpose organisation.

³ Regional Planning Committee is a standing committee of the Regional Council. The Committee is given further legislative mandate by the Ngati Pahauwera Treaty Claims Settlement Act 2012. It will ultimately be established in legislation so that it endures through local government triennial terms.

⁴ RiVAS methodology has been developed by Lincoln University to provide a standardised method that can be applied to multiple river values. It helps to identify which rivers are most highly rated for each value and has been applied in several regions throughout the country.

Programme for Implementation 2013-2030

Three key documents refer to what the Regional Council will do in relation to freshwater management in Hawke's Bay. Those documents are:

- The Hawke's Bay Regional Council Strategic Plan (October 2011)
- The Hawke's Bay Land and Water Management Strategy (November 2011)
- The 2012-22 Hawke's Bay Regional Council Long Term Plan (June 2012), and subsequent annual plans and long term plans over the implementation period.

In short, these documents indicate that the Regional Council will implement⁵ the NPSFM using a variety of methods, in particular:

- Amendments to the Regional Policy Statement;
- Amendments to regional plans (Regional Resource Management Plan and Regional Coastal Environment Plan);
- Assessment of, and decisions on, resource consent applications; and
- A range of non-regulatory initiatives that sit outside of the tools and requirements of the Resource Management Act. Examples of these initiatives are identified in the Hawke's Bay Regional Council Strategic Plan.⁶

⁵ The NPSFM's 2011 Implementation Guide notes:

- a) that where policies of the NPSFM require regional councils to make or change RPS or regional plans, these changes must be fully operative for this Policy to be considered implemented;
- b) the NPSFM does not need to be given effect to within one plan change, nor in the first available plan change; and
- c) timelines in NPSFM Policy E1 relate to putting in place the necessary policies, plans and/or methods. The improvements in water quality are not required to be met by the stated times.

⁶ October 2011 (HBRC Plan number 4282).

Reporting

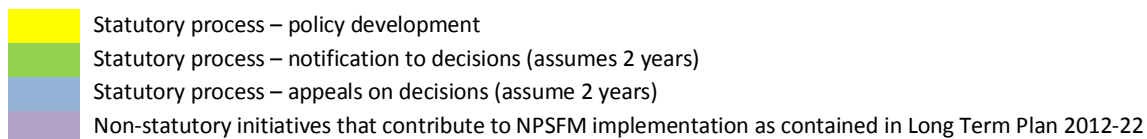
Annual reporting on Programme Implementation is required by Policy E1(e) of the NPSFM.

The Council will report annually on Programme implementation progress in its Annual Report.

Financial and Resourcing Implications

If, as a result of the annual reporting of the implementation programme, the programme is falling behind, the programme will be reviewed along with financial and resourcing requirements as part of the next Annual Plan or Long Term Plan process.

FIGURE 1 – Implementation Programme’s indicative timeline (Years based on the July to June financial year)



Activity	2012-13	2013-14	2014-15	2015-16	2016	2017	2018	2019	2020	2021	2022-24	2025-27	2028-30
RPS Change 4 (Built Environment)													
RPS Change 5 (Land use and water)													
Plan change: Mohaka River catchment													
Plan change: Tukituki Catchment (assumes EPA process)													
Plan change: Greater Heretaunga / Ahuriri													
Plan change: Urban stormwater (aligns with Greater Heretaunga/Ahuriri plan change)													
RPS and/or plan change: 2010 NZ Coastal Policy Statement implementation													
Biodiversity Strategy													
RPS Change for Biodiversity (significant wetlands)													
Identification of outstanding freshwater bodies													
RPS Change for outstanding Freshwater Bodies													
Plan change: Rest of region													
Specific plan effectiveness monitoring programmes (Tukituki; Taharua/Mohaka; Heretaunga/Ahuriri)													
RPS/Plan Effectiveness Reporting / Review													
SOE Reporting and Review (5 yearly, annual)													
Regional Afforestation Scheme													
Water Storage Investigations – Ruataniwha and Ngaruroro/Heretaunga Plains													
Science investigations to support plan changes													
Nutrient modelling; Groundwater modelling; Instream flow assessments; Water quality monitoring; Flow gauging; Surface water / groundwater interactions for Heretaunga Plains													
Implementation of Water Measuring Regulations													
Facilitation of water user groups													
Facilitation of catchment groups for non-point source discharges													
Management and mitigation plans													

Maurice Wayne Black – Brief of Evidence – Planning

Change 7 – Outstanding Water Bodies - Te Taiwhenua o Heretaunga Submission

Appendix Two – TREATY PRINCIPLES ACKNOWLEDGED BY HBRC AND INCLUDED IN SCHEDULE I¹ OF THE REGIONAL RESOURCE MANAGEMENT PLAN

“2 PRINCIPLES OF THE TREATY OF WAITANGI

2.1 Section 8 of the Resource Management Act requires all persons exercising functions and powers under it to take into account the principles of the Treaty of Waitangi. To tangata whenua those principles, based on interpretations by the Courts and the Waitangi Tribunal and as applied in the context of sustainable management of natural and physical resources under the Act, mean as follows:

The Principle of Te Tino Rangatiratanga

2.2 Te tino rangatiratanga (full chiefly authority) over resources including lands, forests, fisheries and other taonga were guaranteed to Maori under Article II of the Treaty. Tino rangatiratanga includes tribal self-regulation of resources in accordance with their own customary preferences. Tino rangatiratanga was not, nor was it ever intended to be, relinquished or given away by Maori to the Crown.

The Principle of Partnership

2.3 The Treaty signified a partnership between Maori tribes and the Crown. The exchange of promises under Articles I and II of the Treaty is seen as an exchange of gifts. The gift of the right to make laws and the promise to do so as to accord the Maori interest in appropriate priority. Utmost good faith, reasonable co-operation and compromise are fundamental to this concept of a partnership.

The Principle of Kawanatanga

2.4 Kawanatanga, as ceded by Maori under Article I of the Treaty, gave the Crown the right to govern and to make laws applying to everyone. The delegation of resource management powers by the Crown to local authorities under the Act means that those authorities can make policies, set objectives and make rules affecting the management of natural and physical resources, subject to the guarantee of tino rangatiratanga to Maori and recognition of the partnership between Maori and the Crown.

The Principle of Active Partnership and Consultation

2.5 The spirit of the Treaty calls for Maori to have a much greater say in the management of the environment. Effective, early and meaningful consultation is an integral and necessary component and forerunner to greater participation by Maori in resource management decision-making.

¹ Schedule 1 is referenced in Objective LW3 (c) of the Regional Policy Statement – Tangata whenua values in management of land use and freshwater.

The Principle of Active Protection

2.6 The guarantee of te tino rangatiratanga given in Article II is consistent with an obligation to actively protect Maori people in the use of their lands, water and other protected taonga, to the fullest extent practicable. In the context of resource management, the various elements which underlie and are fundamental to a spiritual association with the environment (including mauri, tapu, mana, tikanga and wairua) may all fairly be described as taonga that have been retained by Māori in accordance with Article II of the Treaty. The principle of active protection therefore extends to the spiritual values and beliefs of Maori.

The Principle of Hapu/Iwi Resource Development

2.7 Article III of the Treaty gave to Maori the same rights and duties as other New Zealand citizens. The Treaty guaranteed to Maori retention of their property rights under Article II, and the choice of developing those rights under Article III. To Maori, the efficient use and development of what are in many ways currently under-utilised hapu/iwi resources is a very important principle of the Treaty in the context of resource management under the Act. Ngati Kahungunu seek restoration of their tribal resources in accordance with their own needs and aspirations. In pursuing development, Māori may choose to pursue non-traditional uses of their resources instead of or as complementary to, their traditional practices. Recognition of the ability and need for hapu/iwi to develop their resources in a manner which achieve the purposes of the Act is a fundamental principle embodied in the Treaty.”

3 THE MAORI CONSERVATION ETHIC

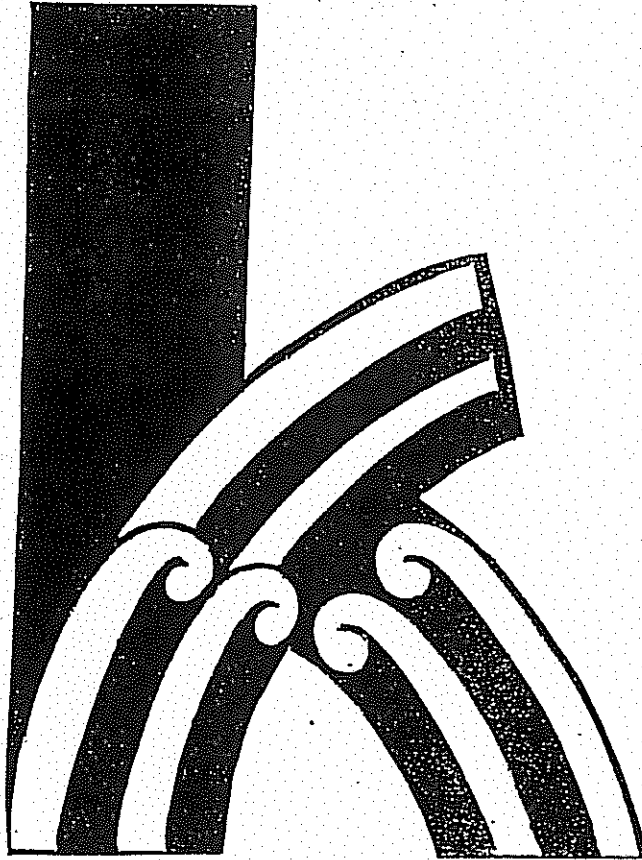
3.1 In essence, this ethic involves the preservation of mauri – simplistically translated as the ‘life-force’ – and the conservation of the species. Where the habitat remains healthy a specie will flourish allowing usage that is mindful of conservation.

3.2 The notions of kaitiakitanga:

- stewardship that respects the heritage of future generations
- mana and rangatiratanga depicting the power and leadership to exercise kaitiakitanga
- tapu/rahui as the management system for the conduct of kaitiakitanga

all contribute to the application of the ethic.

NGATI KAHUNGUNU



Kaitiakitanga Mo Nga Taonga Tuku Iho

December 1992

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APPENDICES

Bill Hodges
Tracy

EXECUTIVE SUMMARY

OVERVIEW OF THE MAIN POINTS

- The principal objective is to introduce Councils to a Ngati Kahungunu "Ethic for Sustainable Resource Management"
- In the process of presenting the basis for such an ethic we examine the following salient aspects:
 - * Global trends, particularly as regards to the role of indigenous peoples and their culture, science and technology in today's perspectives on conservation, protection and environmental preservation.
 - * The way that Maori culture, science and technology is rooted in Maori mythological origins.
 - * The use of Maori terminology, their mythological roots and a Ngati Kahungunu understanding of them in the modern context, particularly in the context of the Resource Management Act 1991.
 - * The principles of the Treaty of Waitangi and what they mean for Ngati Kahungunu.
 - * Ngati Kahungunu holistic approach to both 'resource management' and 'resource development' to indicate our tribal resolve to make the greatest contribution possible to the conservation, protection and preservation of our regional (ie. Ngati Kahungunu wide) resources while also contributing to the economic, social and cultural well being of our general Regional communities. (Hawke's Bay, Manawatu-Wanganui and Wellington).
- The document lists significant issues to Ngati Kahungunu with suggestions for OUTCOMES and methods of IMPLEMENTATION. This list is not exhaustive merely indicative. A list of likely concerns/issues for Hapu is also incorporated.
- Fundamental to the preparation of this draft document is the understanding that:
 - (i) It is introductory by nature, for the dual purpose of:
 - a) Providing a planning process for Ngati Kahungunu to prepare, by graduated stages, for the ultimate production of an Iwi Development Plan, at the same time affording constituent Hapu with the background and incentive to prepare their respective Hapu plans, and
 - b) Providing Regional Councils (3) and Territorial Local Authorities (8) with a basis

for discussion leading to the preparation of Regional Policy Statements, Regional Coastal Plans, Regional Plans and District Plans.

- (ii) It is only a draft which has yet to be ratified by a Hui-A-Iwi (Ngati Kahungunu hui of the people) but is nevertheless based on consultation held at the behest of local Taiwhenua/District Maori Tribal Executive Committees/Hapu and feedback received in a variety of ways.
 - (iii) Time frames imposed by Regional Councils have limited the scope of this document and its standard of presentation.
 - (iv) Its use is strictly limited at this stage to discussions with Regional Councils over Regional Policy Statement and Regional Coastal Plan preparation and, save only by prior agreement, to T.L.A's for District plans.
- The key aspects of this document focus squarely on:
 - * The Treaty of Waitangi as our Nation's founding document and the principles (in descending order of priority) of:
 - TINO RANGATIRATANGA - denoting our powers to 'treat' (*Negotiate*),
 - PARTNERSHIP - the exercise of that power through sharing
 - KAWANATANGA - the granting of power to make rules in exchange for concrete guarantees, including the retention of TINORANGATIRATANGA
 - ACTIVE PARTICIPATION - denoting an equal partnership
 - RESOURCE DEVELOPMENT - inferring autonomy and access to new technologies.
 - * The statutory delegation of the CROWN'S PARTNERSHIP role to Regional and Territorial Local Authorities for resource management and development respectively.
 - * Proposals for the resolution of significant issues using a Ngati Kahungunu Resource Management Ethic as the basis.
 - The Ngati Kahungunu ETHIC is based on the notions (when included in the management system) of:
 - TURANGAWAEWAE, MAURI, MANA, TINORANGATIRATANGA, TAPU
- All of these terms are explained in Chapter 2 at Page 8.
- It remains clear to us that for these plans to bear fruit, discussions and negotiations must take place in an atmosphere of reason and utmost good faith on both sides. In God we trust for the triumph of goodwill and common sense.

"KAITIAKITANGA MO NGA TAONGA TUKU IHO"

(Introductory perspectives to Iwi Resource Management Planning - December 1992)

PURPOSE

Provide a medium for the constituent hapu within Ngati Kahungunu to express their unity of purpose and a tribal consensus to do with sustainable resource management.

Provide an introduction for Regional Councils and Territorial Local Authorities to the Ngati Kahungunu ethic and policies for sustainable resource management.

Form the basis for negotiation with Regional Councils of Hawkes Bay, Manawatu-Wanganui and Wellington for recognition and inclusion of these policies along with the overarching ethic into the respective regional policy statements.

Provide a Tribal Umbrella for constituent hapu to treat with the respective/appropriate Regional Council/Territorial Local Authority for the practical implementation of policies in a spirit of co-operation and utmost good faith.

Provide Ngati Kahungunu with the foundation upon which to produce a comprehensive Tribal Development Plan that constructively contributes to regional, (and by association, national) prosperity of a sustainable nature.

Guardians of our treasures from above

INDIGENOUS CULTURES AND THE ENVIRONMENT

1. A WORLDWIDE PERSPECTIVE

1.1 Ngati Kahungunu takes heart from the increasing global recognition of indigenous knowledge and its contribution to present day resource management. The following examples are indicative of this recognition :-

1.2. The United Nations Conference on Indigenous People and the Environment, held in Santiago in May 1992, reinforced the importance of traditional indigenous knowledge about the environment through the adoption of the following principle:-

"Recognition, protection and respect for indigenous knowledge and practises are essential contributions to the sustainable management of the environment".

1.3 Principle No. 22 adopted by the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil, 3-14 June 1992 says :-

"Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practises. States should recognise and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development".

1.4 That same conference in Rio, at page 381 of its report said, inter alia, :-

"Indigenous people and their communities represent a significant percentage of global population. They have developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and environment..."

1.5 From that same conference report, pages 381 and 382, the following extract is taken :-

"Objectives

26.3 In full partnership with indigenous people and their communities, Governments and, where appropriate, intergovernmental organisations should aim at fulfilling the following objectives:

- (a) Establishment of a process to empower indigenous people and their communities through measures that include :*
 - (i) Adoption or strengthening of appropriate policies and/or legal instruments at the national level;*
 - (ii) Recognition that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate;*
 - (iii) Recognition of their values, traditional knowledge and resource management practices with a view to promoting environmentally sound and sustainable development;*
 - (iv) Recognition that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of indigenous people and their communities;*
 - (v) Development and strengthening of national dispute-resolution arrangements in relation to settlement of land and resource-management concerns;*
 - (vi) Support for alternative environmentally sound means of production to ensure a range of choices on how to improve their quality of life so that they effectively participate in sustainable development;*
 - (vii) Support for alternative environmentally sound means of production to ensure a range of choices on how to improve their quality of life so that they effectively participate in sustainable development;*
 - (viii) Enhancement of capacity-building for indigenous communities, based on the adaptation and exchange of traditional experience, knowledge and resource management practices, to ensure their sustainable development;*

- (b) *Establishment, where appropriate, of arrangements to strengthen the active participation of indigenous people and their communities in the national formulation of policies, laws and programmes relating to resource management and other development processes that may affect them, and their initiation of proposals for such policies and programmes;*
- (c) *Involvement of indigenous people and their communities at the national and local levels in resource management and conservation strategies and other relevant programmes established to support and review sustainable development strategies such as those suggested in other programme areas of Agenda 21."*

2. THE NEW ZEALAND EXPERIENCE

- 2.1 Without exception settlement of new colonies through the application of dominant monocultural perspectives, often to the exclusion of any indigenous cultural input, has resulted in an unsustainable exploitation of natural and physical resources that has wrought unjustifiable depletion and pollution.
- 2.2 Sadly the colonisation of New Zealand has been at great and unsustainable expense to its natural and physical resources and to the culture, practises and traditions of its indigenous people.
- 2.3 Use of Maori language was openly discouraged in schools and the social fabric of Whanau/Hapu/Iwi was deliberately undermined. Political agendas for "assimilation" of Maori have been tried in a variety of ways under a number of guises. The Maori Housing "Relocation" programme of the late 1950s - early 1960s must rate as one of the most devastating of modern times. It represents a cultural upheaval - even "cultural dislocation" - the way whole families were uprooted from their whanau/hapu/iwi supportive social network into an alien insensitive urban environment.
- 2.4 From the outset the practise of Maori medicine through the use of natural herbs and plants was dismissed as "pagan practices" and "quackery". The Whare Waananga through which these and a variety of other skills and practices were handed down were discontinued to the point now where much of that cultural heritage has been lost, some of it irrevocably so. The irony is that today, more than ever before, there is a global move away from "pill-popping" to the pursuit of health through natural foods and remedies.
- 2.5 The heritage arising from the politically orientated social discrimination is directly responsible for the modern levels of Maori social dislocation, best exemplified through the poor performance within the Education system and crimes against society.

Tohunga Outland. (Maori Power) 1901 ack

2.6 Wholesale rape of the Country's Forestry and Fisheries, unsustainable land clearing practises with resultant land erosion and water pollution were all aided and abetted by Government, often in direct contravention of the guarantees of the Treaty of Waitangi.

3. LOOKING AHEAD

- 3.1 Economic, social and cultural advancement are goals that all New Zealanders must aspire to but their attainment must not and cannot continue to be achieved at the expense of the environment. Man's selfish tendencies for being greedy, grasping and avaricious must be tempered by policies practices and codes of conduct designed to allow development to proceed in a manner that recognises our duty to future generations and to the environment.**
- 3.2 Ngati Kahungunu have the practices and control mechanisms that are adaptable to the modern situation. Ngati Kahungunu expresses its willingness to share these with Regional and Territorial Councils within the principles of the Treaty of Waitangi and the spirit of the Resource Management Act 1991.**
- 3.3 This Act is an enlightened statute that provides the framework within which various Iwi and Local Government (Regional and Territorial Councils) authorities can negotiate meaningful strategies, policies and practises for the good of the regional communities. Regional Policy Statements provide the medium for the expression of those strategies, and policies while Coastal, Regional and District Plans will attempt to provide the methodology for practical application.**

CHAPTER 2

John Scott

TOWARD AN UNDERSTANDING OF THE MAORI CONSERVATION ETHIC

"The notions of Turangawaewae, Mauri, Mana, Kaitiaki, (Tino) Rangatiratanga and Tapu, when included in the management system, form the basis of a very strong conservation ethic within traditional Maori Society".

- Rev. Maurice Gray and Lindsay Saunders -" A policy Framework for Traditional Maori Society".

4. MAORI VERSION OF CREATION

- 4.1 To fully appreciate the depth of meaning and the profound implications of these terms, one needs to go back to Maori mythological origins.
- 4.2 Much of what follows can be ascertained from most Kaumatua of all tribes but in terms of oral tradition it will inevitably be given in Maori. For the purpose of this document the works of the Rev. Maurice Gray (Ngai Tahu) of Lincoln College, Canterbury have been drawn on in some way to provide a clearer expression in English.

5. THE SPIRITUAL BEGINNING

- 5.1. In simplistic terms ^{*Now New Land*} IO-MATUA KORE (IO - the parentless one) sprung from out of the great void - TE KOREKORE. From Te Korekore came the realm of darkness ^{*map*} TE PO - within which IO -MATUA KORE created RANGINUI and Papatuanuku - the Sky father and Earth Mother. RANGINUI was reluctant to release Papatuanuku from his embrace and in the process became the procreator of many children who were to become the various "Departmental Gods" or Atua living within the realm of darkness (TE PO).

6. THE SEPARATION

- 6.1 TANE was one of these many children (ATUA) who were repressed in this way. He sought release from this repression by burying his head in his Earth Mother's bosom, at the same time thrusting his feet against his Sky Father thus separating both parents.**
- 6.2 By this act of separation light and space began to fill the darkness thus bringing about the third state of reality. i.e. "TE AO MARAMA" - the broad daylight.**

7. THE PHYSICAL BEGINNING

- 7.1 Tane was the procreator of mankind. Having no female counterpart he took part of the soil from mother earth to fashion a female form and invoking authority from IO-MATUA KORE, Tane was given the Mana to breathe life (MAURI) into his female creation so giving rise to the first human being. Thus began an evolutionary process which produced mankind.**
- 7.2 In order to cover his mother's nakedness, Tane clothed her with forest and plant life and became dominant over the land and all who dwelt upon her.**
- 7.3 TANGAROA took over the oceans - TAWHIRIMATEA, the elements of wind, rain, and lightning - RUAMAKO, earthquakes and so on in diminishing order within the hierarchy of the Departmental Gods or Atua. Various Atua contributed to the evolutionary processes. Through empowerment from IO-MATUA KORE the other Atua, like Tane, created other beings within the physical realm.**
- 7.4 The Maori was but a part of this universal creativity and his perception was (and is) that he belonged to the physical environment - but that environment did not belong to him.**
- 7.5 The "Natural and the physical resources" (words of the Resource Management Act", like the REO (language) were TAONGA TUKU IHO (in the vernacular "heaven sent treasures") that the gods had made available for wise use and management within the laws and traditions handed down over the eons of time.**
- 7.6 Because these things emanated from the Atua or Gods, it became a customary prerequisite to seek their permission whenever the use of a resource was intended. Appropriate prayers and incantations preceded the use or action.**
- 7.7 Tikanga (being generally described as the values and belief systems of Maori) always dictated such constraints as may apply to the acceptable use of any resource (TAONGA).**

SUMMARY

The first state of reality was TE KOREKORE - the great void - from which IO-MATUA KORE (the parentless one - the supreme being) emerged.

The second state of reality was TE PO - the darkness, within which IO-MATUA KORE created RANGINUI (sky father) and PAPATUANUKU (earth mother). Their many children who were Atua or Gods were born into this great darkness.

The third state of reality was TE AO MARAMA - the broad daylight, created by one of the Atua, Tane, by the act of separating his parents.

The creation and evolutionary processes were continued through the Atua through the Mana, Mauri and Wairua (authority, life essence and spirit) granted to them by IO MATUA KORE.

These Atua were responsible for the creation and evolution of all living things, including human beings, within the physical world. The Maori was born into this physical reality as a part of it. He belonged to this physical environment - it did not belong to him.

The Maori role as Tangata Whenua (being born of the earth) was to "wisely manage" the physical world and to assist him in this task he was given the gifts (TAONGA) of MANA, WAIRUA, TIKANGA and REO being respectively the Power of Representation, Spirituality, Values and Beliefs System and Language. Being as it was a management and guardianship role, he had Kaitiakitanga.

Within the Maori social structure he developed Turangawaewae (permanent settlements) over which he exercised Tino Rangatiratanga which he enforced through the system of TAPU.

This simplistic outline, designed for the layman and not the academic, indicates the deep Maori spirituality that goes back in genealogical terms to IO-MATUA KORE. That is why whakapapa is regarded by Maori as being so tapu yet so basic in the hierarchical sense in terms of traditional Mana and Tino Rangatiratanga.

To understand these beginnings is to understand the Maori ethic for modern day "sustainable resource management".

To understand the sanctity of whakapapa and the notions of Mana, Turangawaewae, Kaitiakitanga and Tino Rangatiratanga is to understand not only the need to consult but whom it is that ought properly to be consulted.

SUMMARY OF TERMINOLOGY - THEIR EXPLANATIONS

- IO-MATUAKORE** Literally "IO the parentless one" - Known by a number of other names, all of which have the prefix "IO". He is the Supreme Being - GOD - who emanated from the great void - the first state of REALITY.
- ATUA** Departmental God - being a child of Ranginui and Papatuamuku.
- TE PO** Literally "the darkness" described in varying ways and names, prefixed by "Te Po..." - the second state of REALITY.
- TE AO MARAMA** Literally "the world of light" - broad daylight.
- RANGINUI** Created by IO-MATUAKORE to be the sky father (of the atua or departmental gods)
- PAPATUANUKU** Created by IO-MATUAKORE to be the Earth Mother (wife of Ranginui)
- MANA** The "authority" sought by the Atua from IO-MATUAKORE to exercise certain of his powers, i.e. creation and (as with Tane) procreation. Aspects of this authority were invoked by Tohunga (being experts who were products of the Whare Wananga or various branches of learning) who exercised it within and for the purposes of the natural and physical world. In the modern context it denotes the notion of empowerment, entitlement, authority, prestige, influence and control.
- MAURI** Life essence which was that of IO-MATUAKORE to give to worthy delegates (being the Atua).
- WAIKUA** Spiritual essence also derived from IO-MATUAKORE.
- RANGATIRATANGA** Denotes the status of the individual, whanau, hapu, Iwi in which MANA reposes or sits. TINO Rangatiratanga is the ultimate status.
- TAPU** Is the notion of being in the presence of the Atua set aside for restricted use by that Atua. Restrictions imposed by dedication or consecratory ritual. There are various forms i.e. permanent, temporary or seasonal. RAHUI is a temporary state of Tapu.
- TURANGAWAEWAE** Literally "a place to stand" - permanent settlement.

CHAPTER 3

TOWARD AN UNDERSTANDING OF NGATI KAHUNGUNU ASPIRATIONS FOR TRIBAL DEVELOPMENT.

8. LEGISLATION

- 8.1 The Resource Management Act 1991 is, and ought to be seen to be, one of the more enlightened pieces of legislation of recent times, even if it (the Act) may have the appearance of being vague or even tepid in some respects.
- 8.2 At the very least, it places squarely upon our shoulders (as a tribe) and on the shoulders of Local Government Politicians (Regional and Territorial Councillors) the responsibility to find district and regional solutions of a practical nature for sustainable resource management.
- 8.3 For Ngati Kahungunu the attractive and timely parts of the statute have to do with consultation, recognition of Maori values and last but not least, recognition of the principles of the Treaty.
- 8.4 Ngati Kahungunu welcomes the opportunity to demonstrate the worth of our ethic for Conservation and protection of the Environment; we can give practical examples during the course of our current and future relationships with Regional and territorial Local Authorities that our principles, unchanged by the passage of time, have a very real application in the modern setting.
- 8.5 However enlightened and well intentioned the Act might be, as Maori we still harbour some regrets. The Act talks only of "Natural and Physical" resources which reflects a mentality for compartmentalisation. We as Maori prefer to look at all of our resources (TAONGA KATOA) holistically.
- 8.6 Our greatest resource are our people epitomised by the (abridged) saying - "... he aha te mea mui? He tangata, he tangata, he tangata." What is of most importance? People, people, people. Ngati Kahungunu plans for development must include our greatest resource (or Taonga) and that is our people!

9. HOLISTIC APPROACH TO RESOURCE "MANAGEMENT/DEVELOPMENT"

- 9.1 One of the stated purposes of this tribal document is to respond to the opportunity afforded by the Resource Management Act for Ngati Kahungunu to contribute to Regional Policy Statements of Regional Councils.
- 9.2 The scheme of the Act, according to the Ministry for the Environment is such that it should not be used as a vehicle for the pursuit of social and economic objectives". The Ministry points out that the emphasis is on "MANAGEMENT" of natural and physical resources while "social and economic considerations are relevant only to the extent that adverse social and economic effects of resource use are to be avoided, remedied or mitigated".
- 9.3 While such statements reflect the attitude of this present Government to the said statute, those same statements run contrary to our traditional approach to all our resources, the regard for which is a holistic one.
- 9.4 There is clearly a link between the "management" of natural and physical resources and issues of an economic and social nature which go beyond those that are (happily) coincidental to the "management" process.
- 9.5 Natural and Physical resources, spoken of in the Resource Management Act cover only two of the three categories of TAONGA (meaning in this context "resources"). Those two categories are embraced by the terms MANA WHENUA - being land and air resources - and MANA MOANA - being water resources. The third category is MANA TANGATA - being people resources.
- 9.6 It is foreign to Maori philosophy to think of these categories as things apart - it is not within our traditional make up to deal with one without considering the widest effect and implications for the other two. It is even more foreign to talk merely of the "management" of resources in isolation to the "development" of resources.
- 9.7 Figure 1. below has been adapted to take into account the implications of resource management planning under the Resource Management Act and the way that Ngati Kahungunu would like to see it dovetail into our overall Tribal Development planning scenario that takes into account both "management" and "developmental" aspects.
- 9.8 Our approach is consistent in that in the umbrella tribal sense, we want to create the MACRO environment within which the MICRO elements to do with Taiwhenua, Hapu, Whanau and individuals can find the scope to develop and manage their Economic, Social and Cultural well being.

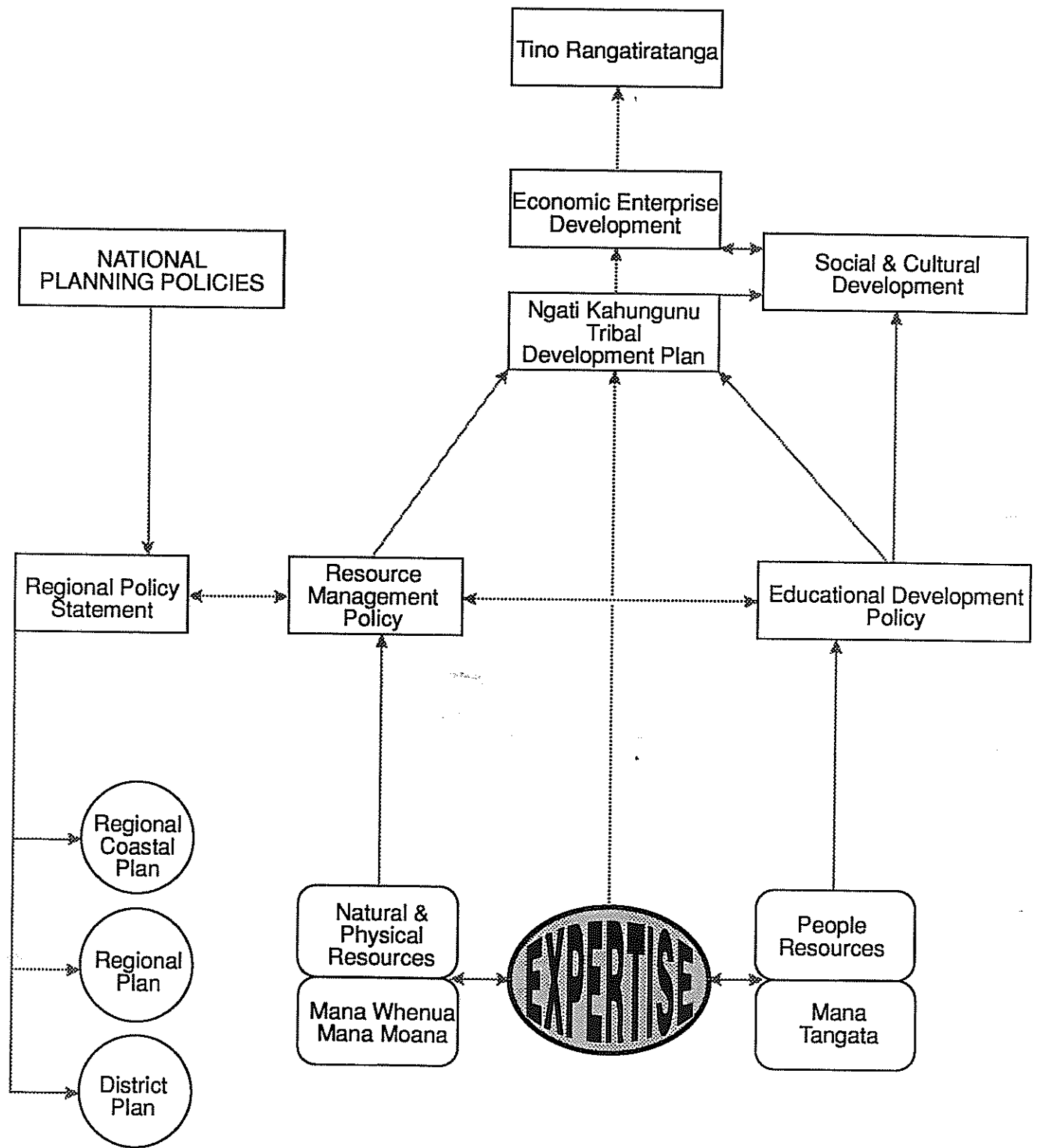


Figure 1:
Tribal Development Strategy

- 9.9 The MACRO environment that we wish to help foster (in tandem with Regional/Territorial Councils) relies on Education as the key to our people development. In essence what we want to do is to bring together Expertise and Resources in a way that marries Education to the practical requirements of INDUSTRY/PRIVATE ENTERPRISE that is in turn linked to the SCIENTIFIC community for PRODUCT and MARKET development.
- 9.10 We cannot realistically achieve our vision by insisting on unnecessarily restrictive policies and guidelines for inclusion within the Regional Policy Statement. On the other hand we will not suffer gladly the kinds of resource management practises of the past which gave way to the pursuit of the dollar without due regard for sustainability of the resource or resources affected.
- 9.11 Ngati Kahungunu are clearly of the mind that with current operations as well as future development, there must be a move toward a "polluter pays" enforcement policy. This will be our attitude towards our own development ideals and will be accorded high priority in our management practises for any of our enterprises. In this we are determined to practise what we preach.
- 9.12 Within that "management/development" scenario is contained a general Maori scientific process for the determination of what is sustainable and this is indicated by figure 2.

For Maaka Sale of Section.

The Maori "Holistic" Philosophy:

In Maori terms there are three sides to the "holistic" being, viz.

- Taha Wairua - spiritual side or being
 - Taha Hinengaro - Mental side or being
 - Taha Tinana - Physical side or being
- . Sides to a person - bits.*

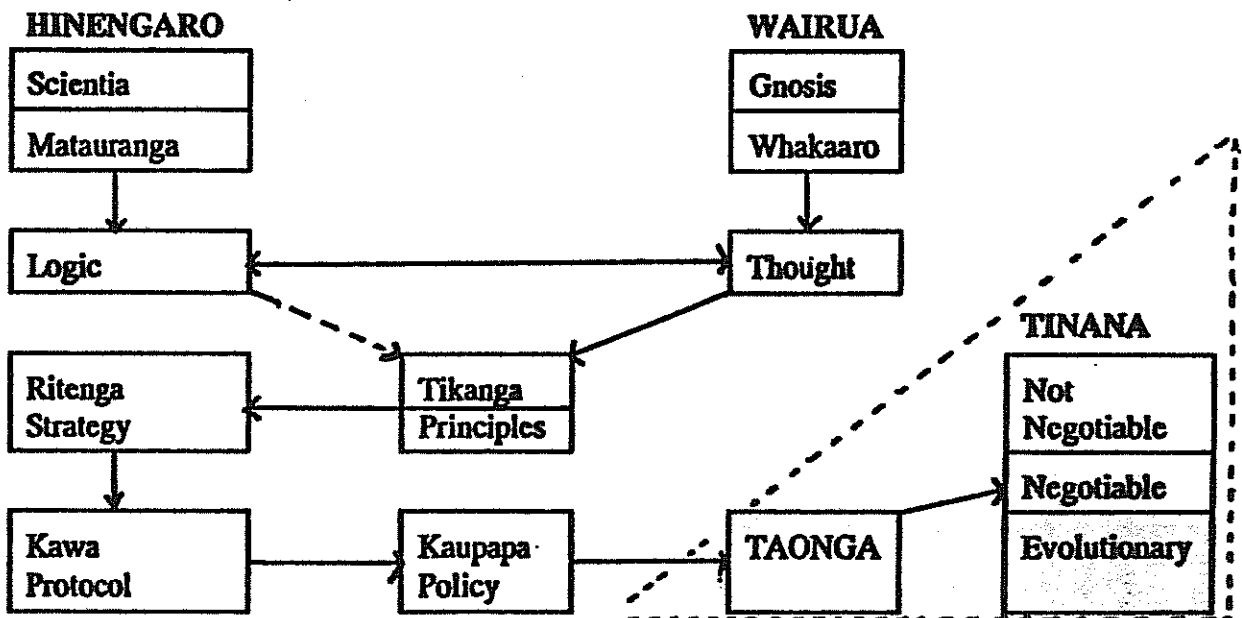
It has equal application to an individual or group (eg tribe). The achievement of total well being requires the development and nurturing of all 3 in association - never in isolation.

Maori "Science" Model

The spiritual (Wairua) in association with the mental (Hinengaro) produce a physical (Tinana) balance.

Added Maori Perspective

Conventional (European) Approach



10. HAPU STATUS

- 10.1 Although a tribal system for general authority is likely to evolve through more in depth tribal discussion and planning, it is well to repeat that the Mana for such monitoring - enforcement even - traditionally lies with the respective constituent hapu through the use of such mechanisms as TAPU (prohibition), RAHUI ("closed season" of variable duration) and NOA (lifting of TAPU or RAHUI). The Fisheries Act contains the mechanism of "TAIAPURE". *Jim Mitchinson*
- 10.2 This signals the need for Territorial Authorities in particular to enter into meaningful dialogue with the appropriate hapu on how the general theme of our tribal "management/development" philosophy can be given practical effect, not merely to accommodate the "Maori perspective", rather because there are obvious benefits that will be seen to be generated for the wider community.

11. PEOPLE RESOURCES/DEVELOPMENT

- 11.1 Because of the "floating" nature of part of our Maori population statistics derived from the national census tend to understate the Maori population within Ngati Kahungunu. Our best estimates through our research and knowledge gained from our networks put our total Maori (not just Ngati Kahungunu) population at 50,000 some 20% of whom are unemployed. This is a gross waste of our people resources but we will never overcome that problem by looking at "employment" in isolation.
- 11.2 Figure 3. below indicates how we wish to apply our WANANGA CONCEPT (broad process for EDUCATION/TRAINING) in a way that best serves our resource management and development aspirations. For us it serves to indicate the absolute necessity of a holistic approach.
- 11.3 Our Rohe (i.e. the whole of Ngati Kahungunu) must benefit from enhanced productivity from our natural and physical resources, particularly land and fisheries; from the increases in employment generated; from the injection of "outside money" into the regional economy; from the opportunities generated for our local tourism industry; from the rise in the social esteem of our wider community.

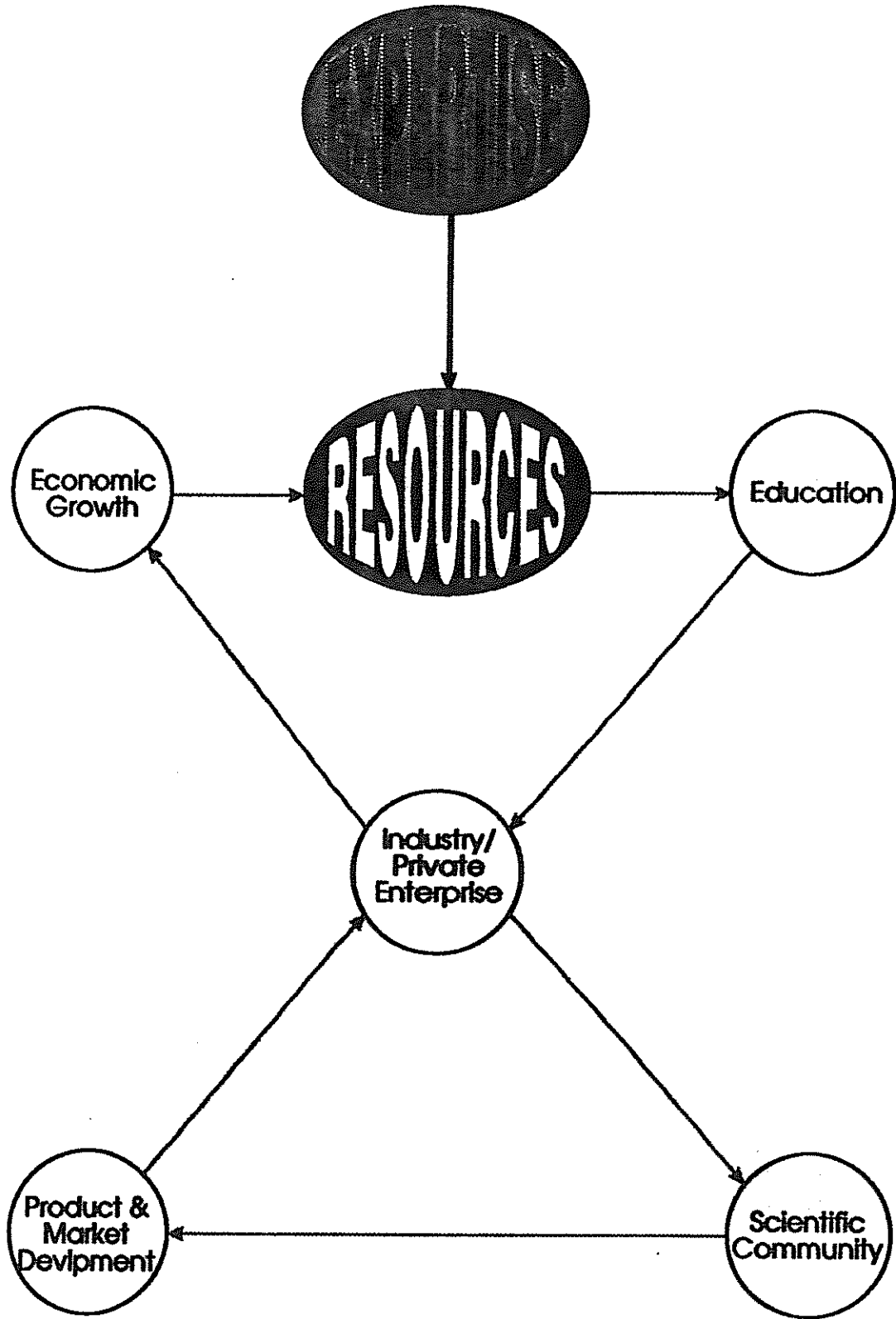


Figure 3:
Application of Wananga Principles

CHAPTER 4

TREATY PRINCIPLES : LINKAGES TO OUR CONSERVATION ETHIC AND DEVELOPMENT ASPIRATIONS.

12. TREATY PRINCIPLES EXPLORED

"The Treaty was an acknowledgement of Maori existence, of their prior occupation of the land and of an intent that the Maori presence would remain and be respected. It made us one country, but acknowledged that we are two people. It established the regime, not for uni-culturalism but for bi-culturalism. We do not consider that we need to feel threatened by that, but rather that we should be proud of it and learn to capitalise on this diversity as a positive way of improving our individual and collective performance.

The Treaty was also more than an affirmation of existing rights. It was not intended to merely fossilise a status quo but to provide a direction for future growth and development. The broad and general nature of its words indicates that it was not intended as a finite contract but as the foundation for a developing social contract.

We consider then that the Treaty is capable of a measure of adaptation to meet new and changing circumstances provided there is a measure of consent and an adherence to its broader principles."

(Quotation from the Waitangi Tribunal in the Atiawa Report.)

"It was inherent in the Treaty terms that Maori customary values would be properly respected, but it was also an objective of the Treaty to secure a British settlement in a place where two people could fully belong. To achieve that end the needs of both cultures must be provided for, and where necessary, reconciled."

(Quotation from the Waitangi Tribunal in the Mangonui Report)

12.1 These quotations by the Waitangi Tribunal provide some bases for an understanding of the Treaty. The points made by the Waitangi Tribunal can be summarised as :-

- * An acknowledgement of Maori existence and prior occupation.
- * Maori presence would be respected.
- * We become ONE COUNTRY OF TWO PEOPLE.
- * A regime was established for biculturalism.
- * An opportunity to capitalise on diversity - be positive about improving individual and collective performance.
- * Not intending to fossilise the status quo - serve as a direction for future growth and development.
- * Not intended as a finite contract - rather a foundation for a developing social contract.
- * Being capable of a measure of adaptation to meet new and changing circumstances.
- * Requiring a measure of consent and adherence to its broader principles.
- * Inherent (in its terms) that Maori Customary values would be properly respected.
- * Being an objective of the Treaty to secure a British settlement in a place where two (races of) people could belong.
- * Both cultures must be provided for, and where necessary, reconciled.

TREATY EXPLORED

12.2 The Court of Appeal (on questions of interpretation) has said, in the NZ MAORI COUNCIL CASE, that

"... the principles of the Treaty are to be applied, not the literal words" X

and further

"... it should not be approached with the austerity of tabulated legalism. A broad unquibbling and practical interpretation is demanded. It is hard to imagine any Court or responsible lawyer in New Zealand at the present day suggesting otherwise."

12.3 The Report entitled "A STARTING POINT AND FRAMEWORK" prepared for the Taranaki Regional Council by Maui Solomon and Robert Schofield provides an excellent guide on matters to do with the Resource Management Act, the Treaty and some MAORI terminology.

12.4 On the subject of Treaty principles pages 32 and 33 of that report has this to say :

"The Waitangi Tribunal and the Courts have developed principles which have, in the main, been concerned with the duty of the Crown to put in place protective mechanisms to safeguard claims to resources being corporatised and/or privatised by the Crown (for example, memorials on land titles, Crown forest rental trust and fishing quota for Maori).

The thrust of the Resource Management Act requires a new emphasis to be given to those principles for interpretation in the context of issues concerning resource management as distinguished from resource ownership. It is therefore important that, in the first instance, the Council and Te Putahi (for the Taranaki people) endeavour to arrive at a consensus on what the principles should be, bearing in mind that these principles will need to be revisited and modified with practical and legal experience under the Act. The spirit of partnership and good faith requires as much".

12.5 The Taranaki report goes on to summarise the principles drawn from the Waitangi Tribunal and the Court of Appeal decisions. They are the principles of :-

- * KAWANATANGA
- * PARTNERSHIP
- * RESOURCE DEVELOPMENT
- * RANGATIRATANGA
- * ACTIVE PARTICIPATION

12.6 Pages 33 to 43 (both inclusive) of that report (reproduced as appendix in this document) provides some perceptive insights into those principles.

13. NGATI KAHUNGUNU PERSPECTIVE

- 13.1 For Ngati Kahungunu purposes our approach is somewhat different if a little less analytical. The key from our perspective is the understanding of the various terms and how deeply rooted they are in our mythological origins.
- 13.2 RANGATIRATANGA should read TINO RANGATIRATANGA which includes the notion that such chiefly rank is supported by the MANA delegated by the ATUA to protect as KAITIAKI, the MAURI and the WAIRUA of the natural and physical resources pertinent to ones TURANGAWAEWAE and all who share those things.
- 13.3 Given that TINORANGATIRATANGA was not (nor was it intended to be) relinquished by MAORI, KAWANATANGA must include the notion that there was to be a PARTNERSHIP where KAWANATANGA would be seen in the light of a Management role of shared responsibility and an exchange of gifts. In the MOTUNUI case the Waitangi Tribunal expressed the exchange of promises under article I and II as :-
- "An exchange of gifts ... the gift of the right to make laws, and the promise to do so as to accord the Maori interest an appropriate priority".*
- 13.4 That our Maori forebears were willing to "share" the natural and physical resources is a fact - they never ever intended to give away or cede TINORANGATIRATANGA or KAITIAKITANGA in the process. An invitation to share a meal is not a licence to take the whole harvest.
- 13.5 The distortions wrought by successive governments to these Maori understandings over the last century and a half has reduced Maori to the point where there is an intolerable imbalance that was never intended by the Treaty. There has been little or no ACTIVE PARTICIPATION.
- 13.6 In talking of those in power, the Waitangi Tribunal said (Mamukau Report)
- "All too easily will such bodies merely assert a 'democratic' right for the majority to outvote the minority which will perpetuate grievances and bring no better results in the future than those that have been produced in the past."*
- 13.7 In her 1988 report, the Parliamentary Commissioner for the Environment noted that token representation will not be enough. Although it may provide an educative function in the short term, it will not resolve the imbalance unless both sides are willing to compromise.

- 13.8 This and the preceding paragraph have been adapted from the Solomon Schofield report for Taranaki Regional Council. Pages 41 to 43 of that Report goes on to deal with a **RESOURCE DEVELOPMENT PRINCIPLE** and a **SPIRITUAL PRINCIPLE** (see the reproduction of these pages as part of appendix) For Ngati Kahungunu purposes we fully endorse those comments.
- 13.9 In terms of finding the means for the reasonable and practical application of our perceptions of the Treaty principles, it is necessary to revisit the principle of **PARTNERSHIP**, some elements of which are :-
- * That the Crown is the Treaty partner with the ultimate responsibility for resource management (subject to Maori rights preserved and guaranteed by the Treaty)
 - * That the Crown has given Regional Councils and Territorial Local Authorities statutory delegations for the exercise of some of its obligations and responsibilities
 - * Those delegates are, ipso facto, (and in terms of Section 8 of the Resource Management Act) in partnership with Ngati Kahungunu for their respective rights and interests, to co-operate in utmost good faith for the determination of principles for sustainable management of natural and physical resources.
- 13.10 As such, we cannot be brushed aside as "just another interest group" or "another ethnic minority". For our part, we pledge a desire, through means of reasoned dialogue and negotiation, conducted in an atmosphere of good will and utmost good faith, to consider the cultural and philosophical differences in order to arrive at outcomes that both partners can live with for the betterment of the whole regional community.
- 13.11 This document can do no more than stipulate our overarching tribal principles as the basis for us to promote matters for inclusion in the Regional Policy Statement, Regional Coastal Plans, Regional Plans and District plans.
- 13.12 Although we have indicated the tribal approach to resource development, it is to be understood that the autonomy reposes with the constituent hapu of Ngati Kahungunu who will deal directly with Territorial Local Authorities for the production of District plans that take into account the Maori considerations as required by the Resource Management Act Sections 5,6,7,8, 32, 61 and 62 and the First Schedule.

CHAPTER 5

SIGNIFICANT ISSUES AND GENERAL POLICIES

14. KEY CONSIDERATIONS

- 14.1 Central to any discussion on issues relating to environmental matters, and not just those to do with sustainable resource management (but for us resource development too), is the absolute importance to Ngati Kahungunu of PRESERVATION and PROTECTION OF MAURI.
- 14.2 As already explained, MAURI is the life essence of nature itself on this planet. To see to its preservation and protection is to provide for conservation of bio-diversity, the outcomes from suit case being restoration and regeneration of Ecosystems. This is the least of our collective community duties to the future generations of our Region - of our Nation.
- 14.3 Once the MAURI has been extinguished within a species, the result is extinction because the natural restorative and regenerative powers are lost. Little wonder then that MAURI plays such a large part within the Ngati Kahungunu Conservation Ethic.
- 14.4 High in our priority list are the Principles of the Treaty of Waitangi - the founding document of our Nation of one country - two people, hence two cultures. While this document leans in favour of the five principles to be gleaned from decisions of the Courts of Appeal and the Waitangi Tribunal, Ngati Kahungunu reserves the right to temper those principles with our own appreciation of what they mean for us as an Iwi.
- 14.5 For one thing TINORANGATIRATANGA, is the number one principle in that through having it in the first place, were able to treat with the Crown on respect to the second ranked principle - that of PARTNERSHIP.
- 14.6 Under that PARTNERSHIP we ceded KAWANATANGA, subject to the GUARANTEES - promises which the Crown never kept but which Section 8 now charges Councils with the responsibility for in terms of Sustainable Management.
- 14.7 The PARTNERSHIP with the Crown is an enduring one, some aspects of which have now been statutorily delegated to Regional Councils. In a sense we see this relationship at best as being an equal partnership - at worst one akin to a TRUSTEE/BENEFICIARY relationship where although the Trustee (the Crown - hence Regional Council) has the legal estate, the beneficiary (Ngati Kahungunu through its constituent Hapu) have the beneficial estate under a relationship that demands that the trustee maximises the returns to the beneficiaries.

- 14.8 The principles of ACTIVE PARTICIPATION fits the notion of shared partnership responsibility presupposing consultation and a sharing of the decision making process. This notion is epitomised by one of the Maori Chiefs (a signatory to the Treaty of Waitangi) who said words to the effect that
- "... to the Queen (Victoria) I give my shadow, but I retain unto myself my substance."
- 14.9 The principle of RESOURCE DEVELOPMENT needs to be weighed up by Councils in arriving at their sustainable resource management decisions. As previously stated, our holistic approach to all TAONGA and their sustainable use development and management mitigates against looking at one aspect in isolation.
- 14.10 In the context of RESOURCE DEVELOPMENT (as well as management) the recent hallmark decision by the WAITANGI TRIBUNAL over the Mohaka River is very relevant to the Hawke's Bay Regional Council in the way that it needs to seriously rethink its functions relating to that TAONGA, or rather that part of the river which is deemed by the Waitangi Tribunal to have never gone out of Ngati Pahauwera "ownership". Negotiations with the Crown and Ngati Pahauwera are about to get underway in an effort to negotiate a settlement. But the case does point to the very real need for Councils and Iwi/hapu of Ngati Kahungunu to promote meaningful dialogue in an atmosphere of reason and good faith. Goodwill on both sides will inevitably serve the long term interests of the Regional communities involved.
- 14.11 Also high on the priority order of SIGNIFICANT ISSUES is the reaffirmation of the traditional social fabric of Whanau/Hapu/Iwi. Policies of the past aimed at "assimilation" as well as "divide and rule" practices must be left in the past. One sided domination of resource acquisition, development and management at any price, can never be justified. The social dislocation leading to social disorder and unrest; the denial of access to legitimate resources to the detriment of educational/academic advancement plus the cultural deprivation are prices no ethnic group should have to pay.
- 14.12 To get Ngati Kahungunu back on track across the board as worthy contributors to the economic, social and cultural wellbeing of our regional communities, the significance of our social networks must be recognised and actively supported insofar as it allows Ngati Kahungunu full cultural expression through its social networks that have the marae as the nerve centre.
- 14.13 Other issues of general tribal significance are covered below but these ought not to be seen as being exhaustive of the issues of moment to us as an iwi. They are merely indicative of the Wairua or spirit of this document that attempts to provide a basis for negotiation between Ngati Kahungunu and Hawke's Bay, Manawatu-Wanganui and Wellington Regional Councils in terms of their respective Regional Policy Statements (and Regional Coastal Plans, Regional Plans) and with Territorial Local Authorities for District plans.

- 14.4 We recognise the need to develop cordial and lasting relationships with all Councils to give practical effect to Treaty principles and by that process, resolve issues.

15. KEY ISSUES OF SIGNIFICANCE TO NGATI KAHUNGUNU

Issue No. 1	ELIMINATION OF RESOURCE MANAGEMENT PRACTICES THAT THREATEN THE MAURI OF NATIONAL SPECIES
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Significance

"MAURI" or life essence of natural species are under threat through pollution, loss and degradation of habitat, unsustainable exploitation.

Traditional Maori practices, based on Tikanga with resource conservation and preservation as the overriding consideration have either been ignored or supplanted by the imposition of a monocultural management regime and development policies.

Mindless rape of native forests has destroyed habitats disrupted the food chain and caused water pollution through erosion and nutrient funn-off, all of which undermine the Mauri of the affected species.

Desirable Outcomes

- * Ecosystem restoration (forestry/Fishery)
- * Ecosystem regeneration
- * Practice of Tikanga Maori according to Ngati Kahungunu Kawa.

Suggested Implementation

- * Planning process (sustainable "waste" management, controls over water quality, impacts on climate)
- * Public Education (Wananga or seminars on natural elements - eg. Nga tamariki O Rangi rana ko papa; traditional Maori science/technology studies, traditional harvesting practices, planting practices)
- * Service delivery (tree plantings for soil erosion, land based sewage disposal, coastal pollution monitoring/clean up exercises)

Issue No. 2	ESTABLISHMENT AND IMPLEMENTATION OF THE PRINCIPLES OF THE TREATY OF WAITANGI (AS PROPOSED WITHIN THIS DOCUMENT) AS A LIVING GUIDE FOR REGIONAL COUNCILS AND T.L.A.'s IN PARTNERSHIP WITH NGATI KAHUNGUNU
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Significance

The Treaty is our Nation's founding document. In the words of the Court of Appeal:

"... the principles of the Treaty should be applied, not the literal words"

and

"... it (the Treaty) should not be approached with the austerity of tabulated legalism. A broad unquibbling and practical interpretation is demanded"

Section 8 of the Resource Management Act requires that the principles of the Treaty be taken into account.

Ngati Kahungunu wishes to apply its own interpretation to the established principles (in descending order) of:

**TINORANGATIRATANGA
PARTNERSHIP
KAWANATANGA
ACTIVE PARTICIPATION
RESOURCE DEVELOPMENT**

By defining a Ngati Kahungunu understanding of such terms at KAITIAKITANGA, MAURI, MANA, TURANGAWAEWAE, TAPU AND TAONGA, the notions of the Treaty principles as we understand them are capable of being better understood in terms of the Iwi/Hapu/Whanau role in resource management.

Desirable Outcomes

- * A working relationship based on PARTNERSHIP that is centred around accepted and respected principles.
- * Policies designed to create the best "environments" possible
- * Reaffirmation of the "active participation" principle in the decision making process
- * Ongoing consultation

Suggested Implementation

Policy directives (for inclusion in Regional Policy Statement, Regional Coastal Plans and Regional Plans for which T.L.A's shall have regard)

Education (publicity to raise community awareness, seminars, training)

Funding (ie. general consultative process, representative process, iwi/Hapu planning, / monitoring and evaluation)

Issue No. 3	THE REAFFIRMATION OF THE MAORI SOCIAL FABRIC OF WHANAU, HAPU, IWI AND THE IMPORTANCE OF THE ENVIRONMENT
MARAE	

Significance

It has been accurately said that although Hapu have always exercised autonomy, the Maori social fabric allowed the constituent Hapu within an Iwi to unite for power in times of war and projects in times of peace.

This social fabric with its unique networking system has been drastically eroded for political purposes of "assimilation" and "divide and rule" to the point where its strengths have been undermined and has thereby become increasingly less effective. Social disorder and lack of achievement has resulted.

In order to get the most sustainable, and therefore effective use, out of this valuable resource, both Regional and other Councils must do their part to actively encourage the re-establishment of that Maori Social order as a means to cement a lasting foundation for the inclusion and for use of indigenous scientific and technological knowledge within the Regional resource management policies and plans.

Outcomes would Include

- * Standardised levels of Maori representation for CONSULTATION. *AW*
- * Marae being respected as the physical manifestation of Tinorangatiratanga for constituent Hapu of Ngati Kahungunu.
- * Optimum use being made of Marae as the physical, cultural and spiritual base for meaningful consultation with Councils as appropriate.

Implementation

Some suggestions include: rationalisation of the Maori Social fabric of "representation" at District Council level through to Regional Council (may require adjustment by both Maori and Councils), regulation (rules in plans), service delivery (e.g. confirmed funding of the evolving relationship) economic incentives (e.g. rating concessions, works concessions, employment schemes, tourism support), education (e.g. cultural awareness by Council/General public). CONTINUE

Issue No. 4 MANAGEMENT OF THE COASTAL ENVIRONMENT

Significance

Ngati Kahungunu has one of the largest Coastal environments within Maoridom. Our Fisheries resources are vast but have been devastated by commercial over exploitation and inept political/executive management.

Our coastal environment is a major recreational and tourism asset as well as playing an important part as a life-support system. Despite that some District and City Councils continue to pollute our rivers and coastal waters by allowing unacceptable levels of improperly treated wastes (effluent and sewage) to be discharged into them.

The contamination of our coastal waters is highly objectionable and totally unacceptable culturally. The "MAURI" or life essence of the coastal ecosystem, particularly where our "MAHINGA KAI -MATAITAI" (food sources - fisheries) are concerned, is being progressively destroyed.

Licenses continue to be issued for the commercial exploitation of the resource but little or no part of this revenue is being used to look at research and/or reseedling. No part of that revenue, it would seem, is assigned to the monitoring of levels of contamination from a variety of causes. *Revenue*

Our constituent hapu have prided themselves on their tradition of being good hosts, a status judged by the quality, quantity and variety of foods (particularly seafoods) for guests. Within parts of Hawkes Bay waters, our mussels particularly have been contaminated and are not fit for human consumption.

The toxic and other wastes (which have contributed to this sorry state) might as well have been dumped onto our dinner tables -the cultural significance is the same as though they (the wastes) had been.

Those persons, groups, organisations and bodies that contribute to the pollution of our water ways and coastal waters should be made to pay a heavy "pollution tax" on a "polluter pays" basis until they have taken appropriate lasting corrective measures.

Farmers, foresters, horticulturalists, commercial and industrial firms, private individuals, local bodies are examples of those who ought to be held to a strict compliance code where the quality of our water in general and our coastal waters in particular are being, contaminated, polluted and ecologically damaged.

When all is said and done, it is often a combination of a range of bad management practises inland which has a cumulative effect on the ever diminishing quality of our waters as they progress towards the sea.

The variety and diversity of land uses, particularly the intensive settlements that produce so much man made wastes must be monitored and controlled for coastal protection purposes.

Outcomes for Coastal Protection should include:

- * Preservation and protection of the "MAURI" of the coastal ecological system.
- * Protection of the characteristics of the coastal environment of special value to Ngati Kahungunu including waahi tapu, tauranga waaka, mahinga kai - mahinga mataitai and taonga raranga.
- * Respect for RAHUI and TAIAPURE.
- * Practise of Tikanga Maori, according to Ngati Kahungunu kawa in the use of coastal resources, including the acknowledgement of Kaitiakitanga based on Tinorangatiratanga.

Implementation

Ngati Kahungunu expectations include regulation (rules jointly established in consultation with Hapu/Iwi - in the Regional Coastal Plan and District Plan, "Polluter pays" penalty or tax, cessation of untreated or only partly treated sewerage and effluent into water ways/sea, move to land based/wood lot orientated disposal of treated wastes), service delivery (signs, servicing of camping areas), education (publications that increase community awareness of cultural perspectives), advocacy (e.g. support for initiatives such as RAHUI, TAIAPURE and marine reserves under other legislation).

Issue No. 5	GREATLY REDUCE, WITH THE ULTIMATE AIM OF ELIMINATING AVOIDABLE ENVIRONMENTAL POLLUTION AND DAMAGE THROUGH PROPER WASTE MANAGEMENT POLICIES/PRACTICES
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Significance

Waste is of grave concern to Iwi and has been emitted in areas where it has caused serious cultural damage and affront through the desecration of waahi/aapu, kaiawa, kaimoana and mahinga kai. Waste also results in a downgrading of amenity values and a degrading of property values.

We repeat by way of emphasis our abhorrence at the dumping of waste viz. through sewage outfalls into waterways and the ocean.

In terms of hazardous waste Ngati Kahungunu is concerned at the lack of Government implementation systems for the storage and disposal of such waste.

Expected Outcomes

- * Reduction of environment pollution to levels mutually acceptable to Ngati Kahungunu and District/Regional authorities.
- * Relocation of waste disposal systems to meet the cultural sensitivities of Ngati Kahungunu.

Implementation

- * Regulation and rules and by-laws
- * Service delivery
- * Economic (restoration and pollution tax)
- * Education, training and publicity
- * ✓ Installation of effective monitoring systems

Issue No. 6	PROTECTION AND PRESERVATION OF WATER QUALITY
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Significance

Water quality is the very essence of life and the preservation of Mauri within the natural world.

Within the Maori management regime for the physical world, water had a variety of classifications according to the intended use. It is not proposed, for the purposes of this document to enlarge on those classifications except to say that with each "use" case was taken to respect and preserve the natural quality and inherent Mauri.

Waters used for human consumption or from which a variety of foods were gathered was never allowed to be contaminated by human waste. To defile or pollute water in that way would be akin to dumping human excrement on ones dinner table. Distasteful as this analogy may be, it only begins to explain the absolute cultural abhorrence of practices whereby untreated or improperly treated sewage and effluent are deliberately discharged into rivers, streams, lakes and oceans that are Maori traditional food sources or from whence water for domestic use is drawn.

Such culturally insensitive and environmentally unsustainable practices must cease. Similarly farming, horticultural and forestry practices, industrial and commercial discharges, which are harmful to the surface, underground and/or the coastal waters must be curbed and eliminated, particularly where there is clear evidence that the bio-diversity of nature is being unacceptably interfered with.

Expected Outcomes

- * Cessation of sewage/effluent discharges into the water courses, streams, rivers and oceans.
- * Provision of proven land based waste disposal systems for treated sewage/effluent as part of tree/woodlot plantings.
- * Change in farming/forestry practices that eliminates unacceptable levels of nutrient enriched runoffs into natural water ways.

Implementation

- * Regulation (within planning documents and bylaws)
- * Service delivery (land based waste disposal)
- * Economic (introduction of "pollution tax" to fund corrective or prevention measures)
- * Education (publications to increase awareness, seminars, training)

Issue No. 7	ENSURE THE PROTECTION AND PRESERVATION OF WAAHI TAPU
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Significance

Waahi tapu are defined by the Resource Management Act 1991 and are usually translated as "sacred sites". As a general rule they are land based but some, such as Tauranga Waka are coastal.

Their range include such places as burial sites, ceremonial or funeral sites, pa sites, objects or places of historical significance to Whanau, Hapu or Iwi.

These sites bare particular cultural significance and sensitivity and their location are often a closely kept secret. At least one Council within our tribal territory has actively undertaken the task of locating Waahi Tapu within its area of jurisdiction by funding that research. While the Council's motives might, at first blush, seem commendable, such a programme which is embarked upon without due consultation could be construed at best as insensitive and worse yet highly objectionable.

Consultation on this issue ought to begin at Iwi level to get a feel for what will be divulged for planning and protection purposes. If the sites are of Hapu/Whanau significance then consultation must proceed to these levels.

Expected Outcomes

- * Protection and preservation of sites
- * Access to sites
- * Suitable physical identification where that is permissible

Implementation

- * Regulation (through indicators within Regional Policy Statements, rules of Regional Coastal Plans, Regional Plans and District plans)
- * Publicity (Notices, signs, publications)

Issue No. 8	LAND USE, OF WHATEVER TYPE, CONFORM TO AND HAVE DUE REGARD FOR THE NGATI KAHUNGUNU ETHIC FOR SUSTAINABLE RESOURCE MANAGEMENT
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Significance

Papatuanuku by the earth mother was the basis for all creation within the natural order. Tane clothed her and procreated mankind. Other Atua provided other species within the natural and physical world.

Therefore if she is to continue to nurture and nourish that natural bio-diversity, we must do our best to assist her in that process or rather refrain from doing anything that obstructs or undermines the process.

Farming practices, emphasise a point. Some farmers persist with pastoral activities that fly in the face of natural forces such as climate and weather patterns instead of heeding those natural forces and undertaking enterprises that are more in keeping with nature.

Stripping of natural vegetation thus exposing Papatuanuku to the ravages of avoidable erosion is, again, another example. Removing or destroying habitats by cutting down forests/bush is yet another.

The ethic of applying Tikanga to Taonga in order to reach a decision on whether a use is sustainable should be applied for each intended use. If the result is in the negative, rules for acceptable (sustainable) management should automatically ^pdebar such intended use.

The specifics of land management and development are matters for Hapu, having Mana Whenua, to decide in conjunction with the appropriate authorities having regard to Hapu requirements set out in separate Hapu planning documents.

For tribal purposes, the issue is to outline a general, ethic pertaining to land that can be incorporated into a Regional Policy Statement which affords protection through management yet still allows resource development.

Desirable Outcomes

- * Practices that are conservation oriented.
- * Uses which safeguards the general environment.
- * User control/monitoring that avoids unacceptable nutrient, effluent, sewage pollution to both land and water.
- * Rules which have regard for cultural integrity and Maori Socio-economic needs (eg. preservation of Tahonga Raranga such as Pingao)

Plants for screening

Implementation

Education (publications that make public environmentally aware, support for school programmes, seminars, training)

Regulation ("polluter pays" tax, planning documents, special project levies, resource consent/refusal process)

Service delivery (improved control practices eg. afforestation, retirement, reserves)

16. INTER RELATIONSHIP OF ISSUES

- 16.1 The above examples are indicative of the inter-relationship of the various issues and by their nature cover a host of other issues that are not mentioned.
- 16.2 These few serve our purpose if they provide us and Regional Councils with the basic material for on-going exchanges and discussions that serve our mutual benefit.

17. HAPU ISSUES

17.1 This document is not intended to traverse issues which are properly the concern of the constituent hapu

17.2 Hapu plans will deal with the following types of issues ie.

LAND Pastoral
Horticultural
Forestry
Marae and Reserves
Papakainga/Rural Housing
Mining
Prospecting
Sewage/Effluent Disposal Projects
Mahinga Kai

WATER Underground - Aquifer
Surface -
Lakes and Beds
Rivers and Beds
Shingle removal
Swamps
Rahui
Drains

AIR { Mahinga Kai
Fish spawning grounds
Emissions/Pollution

COASTAL Mahinga Kai/Mahinga Mataitai
Estuaries
Commercial
Rahui/Taiapure
Settlement/Development
Reserves

**Before Independent Hearing Commissioners
In Napier**

Under the Resource Management Act 1991 (the Act)

In the matter of of a submission by Pernod Ricard Winemakers New Zealand Limited in respect of the proposed Plan Change 7 to the Hawke's Bay Regional Plan pursuant to Clause 6 of Schedule 1 of the Act regarding outstanding water bodies

Between **Pernod Ricard Winemakers New Zealand Limited**
Submitter

And **Hawke's Bay Regional Council**
Local authority

Statement of evidence of Mark St Clair for Pernod Ricard in relation to Plan Change 7 of the Hawke's Bay Regional Resource Management Plan – Planning Expert

Dated 13 November 2020

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Statement of Evidence of Mark St Clair

1 Introduction

- 1.1 My name is Mark Leslie St Clair.
- 1.2 I am a director of Hill Young Cooper Ltd, a Planning and Resource Management consultancy firm based in Wellington and Auckland.
- 1.3 My evidence is given on behalf of Pernod Ricard Winemakers New Zealand Limited (**'Pernod Ricard'**).
- 1.4 This evidence focuses on the planning matters arising from the proposed Plan Change 7 (**'PC7'**) to the Hawke's Bay Regional Resource Management Plan regarding outstanding water bodies.

2 Qualifications and experience

- 2.1 I hold a Bachelor of Resource and Environmental Planning, with first class honours, from Massey University.
- 2.2 I have more than 30 years' experience in planning practice in local government (Lower Hutt City Council and Manukau City Council), central government (Ministry for the Environment) and private practice (Connell Wagner, Manukau Consultants Ltd, GHD Ltd and Hill Young Cooper).
- 2.3 I also regularly sit as a commissioner on hearings for resource consents, plan changes and general policy development administered under the Resource Management Act 1991 (**'RMA'**) and Local Government Act 2002.
- 2.4 I have annexed full details of my qualifications and my relevant past experience in **Attachment A** of my evidence.

3 Code of conduct

- 3.1 I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

4 Scope of evidence

- 4.1 I have been asked by Pernod Ricard to provide expert evidence in relation to the planning matters arising from PC7.
- 4.2 In this brief of evidence, I:
- a outline my understanding of Pernod Ricard's operations and resource consents as relevant to PC7;
 - b consider the relevant national planning instruments; and
 - c provide an independent assessment of Pernod Ricard's key submission points relative to how those points have been addressed in the Section 42A Report.

5 Pernod Ricard's operations in the Hawke's Bay Region

- 5.1 Hawke's Bay is one of the locations of Pernod Ricard's three company wineries, along with Blenheim and Auckland. Pernod Ricard owns and leases 422 hectares of vineyards in the Hawke's Bay region, which produce a range of grape varieties including chardonnay, sauvignon blanc, pinot gris, Bordeaux reds, and Syrah. These vineyards are located throughout Hawke's Bay, including at Crownthorpe, Bridge Pa Triangle, Te Mata, and Tukituki.
- 5.2 Pernod Ricard hold a number of water permits for the take and use of water, for vineyard purposes such as irrigation and frost fighting. In addition, land use consent is also held to undertake excavation in the bed of the Ngaruroro River to channel water over an infiltration gallery. A list of the resource consents held by Pernod Ricard are annexed to my evidence in **Attachment B** and spatially referenced in the map annexed to my evidence in **Attachment C**.
- 5.3 Pernod Ricard has its Hawke's Bay winery based at Church Road in Taradale. Apart from a small take for irrigation of the grounds around the winery, cellar door and restaurant, the winery water supply is from the Napier City Council reticulated supply.

6 Relevant National Planning Instruments

National Policy Statement on Freshwater Management

- 6.1 The National Policy Statement on Freshwater Management ('**NPSFM**') was first gazetted in 2011.¹ It was replaced in 2014,² updated in 2017 (though still referred to as the NPSFM 2014)³ and again most recently replaced in 2020.⁴
- 6.2 In terms of related sequencing, PC7 was notified on 31 August 2019, with the submission period closing on 28 February 2020. The NPSFM 2020 was approved by the Governor General on 3 August 2020 and came into force on 3 September 2020. The further submission period opened on 26 August 2020 and closed on 10 September 2020. I note that when PC7 was prepared and the original submission period was open, it was the NPSFM 2014 that was in place.
- 6.3 I also observe that, from a planning perspective, a further submission can only support or oppose an original submission,⁵ and that a further submission may not otherwise extend the relief sought by an original submission.
- 6.4 I concur with the assessment of Ms Harper and Ms Nicholson ('**the Officers**') in the Officers' Report,⁶ that the extent to which PC7 can 'give effect to' the NPSFM 2020, is limited by the scope of the submissions. In this regard I have relied on the relevant case law as set out in the report of the Officers⁷ and matters to be addressed in the legal submissions of Mr Hudspith.
- 6.5 The most relevant provision of the NPSFM 2020 in relation to PC7 is Policy 8,⁸ which states that:
- 'The significant values of outstanding water bodies are protected.'
- 6.6 I concur with the Officers that neither the current NPSFM 2020 or the earlier NPSFM 2014 provide guidance on the criteria for evaluating and identifying outstanding waterbodies.⁹ I further concur with the Officers' assessment as to the difference between the definition of 'outstanding water body' as a water body that has one or more outstanding values,¹⁰ and Policy 8 which refers to the

¹ Effective 1 July 2011.

² Effective 1 August 2014.

³ Effective 7 September 2017.

⁴ Effective 3 September 2020.

⁵ RMA, First Schedule, Clause 8(2).

⁶ Officers' s42A Hearing Report for PC7, prepared by Belinda Harper and Nichola Nicholson.

⁷ Officers' s42A Hearing Report for PC7, Paras 80 – 86.

⁸ Notably, this is very similar in effect to Objective A2(a) of the NPSFM 2017, which was in force when PC7 was notified.

⁹ Officers' s42A Hearing Report for PC7, Paras 111-116, 174, 431.

¹⁰ NPSFM 2020, cl 1.4.

‘significant’ values of outstanding water bodies.¹¹ In my view the approach that has been taken in PC7 by providing separately for outstanding and significant values represents a sensible way of reconciling the somewhat unclear provisions of the NPSFM 2020.

7 Section 32

- 7.1 The submission of Pernod Ricard sought that only those water bodies that are truly outstanding are retained in PC7 where there is a robust section 32 analysis to support their inclusion.¹²
- 7.2 The Section 32 evaluation process is set out in full in the report that accompanies the Plan Change, including a detailed description of the process that was followed in the identification of those waterbodies that were finally included in the Plan Change at notification.¹³
- 7.3 The Section 42A Report records that there was a lack of evidence in relation to some of the water bodies identified¹⁴ when PC7 was notified. In addition, the Section 42A Report also records that it is not conventional process to notify a Plan Change with known evidential deficiencies and goes on to set out the reasons for that approach.¹⁵ As I understand it, the Council’s proposed approach is to rely on the oral submissions to PC7 to fill in the information gaps and to provide robust evidence for the inclusion of each Outstanding Water Body (**OWB**) in the Plan Change.¹⁶
- 7.4 I agree with the Officers, that it is not conventional to notify a Plan Change with known evidential deficiencies. In part because the Section 32 evaluation report should in my view provide the justification for inclusion of any provisions in the first instance. In addition, I observe that Clause 10 of the First Schedule of the Resource Management Act 1991, requires a decision to be made on the provisions and matters raised in submissions, and not as I understand it the Plan Change itself.

¹¹ Officers’ s42A Hearing Report for PC7, Topic 2 Pages 24 – 30.

¹² Pernod Ricard Original Submission on PC7, Submission 32.6.

¹³ Outstanding Water Bodies Plan Change, Plan Change 7: Regional Resource Management Plan – Section 32 Evaluation Report HBRC Report Number SD19-22, Publication Number: 5408, Pages 15 – 37.

¹⁴ Officers’ s42A Hearing Report for PC7, Paras 125 – 126.

¹⁵ Officers’ s42A Hearing Report for PC7, Para 136.

¹⁶ Officers’ s42A Hearing Report for PC7, Para 137.

7.5 From a planning perspective, the reason for highlighting these matters is that the Section 32AA evaluation as to any changes to the Plan Change will, in my view, require significant consideration because that has not been undertaken prior to notification, as well as the provision of evidence to address the matter.

8 Significant Values

- 8.1 The original submission of Pernod Ricard¹⁷, noting the approach in PC7 of prioritising outstanding values over significant values, sought the deletion of Policy LW3A until such time as examination of economic and social effects if primary productions values always give way to instream values.¹⁸ I understand that Pernod Ricard may now have revised this position somewhat, following the NPSFM 2020 coming into force.¹⁹
- 8.2 I have already indicated my agreement with the Officers' assessment as to the difference between outstanding and significant values as they relate to the NPSFM in paragraphs 6.1 to 6.6 above.
- 8.3 Accordingly, I am of the same mind as the Officers in that the inclusion of 'significant values', where they have been determined in consultation with the community, iwi authorities and key stakeholders is appropriate. This has occurred in relation to proposed Plan Change 9 TANK where those values are included in PC7 Schedule 25. For the remainder of the OWBs in Schedule 25, those significant values are proposed to be included through future plan changes.
- 8.4 The significant values listed in Schedule 25 include, amongst others, domestic and municipal water supply, primary production water use, indigenous fish, bird and plan populations, hydrological, social cultural and recreational activities.
- 8.5 In my view the inclusion of the significant values, including domestic and municipal water supply and primary production water use is appropriate where they apply to an OWB, including because effects on those values may contribute to effects on the outstanding values. In addition, I note that such values are among the 'other values that must be considered' under Appendix 1B of the NPSFM 2020 (and an 'other national value' in the NPSFM 2014 prior to that).

¹⁷ Pernod Ricard Original Submission on PC7, Submissions 32.7 – 11.

¹⁸ Pernod Ricard Winemakers New Zealand Limited – Form 5 Submission on Plan Change 7 – Outstanding Water Bodies, Paras 15 – 18.

¹⁹ I understand this will be addressed in the legal submissions of Mr Hudspith on behalf of Pernod Ricard.

9 Policy LW3A

9.1 Policy LW3A.1, as recommended by the Officers in the Section 42A Report, states:²⁰

1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan changes is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account have regard to:
 - a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding water body

9.2 On my reading of this policy²¹, it is phased in such a manner as to require a decision maker to consider how an individual consent application protects the outstanding values of an OWB, rather than how activity does not prevent the protection of adverse effects on the values of the OWB, or whether protection could still be achieved notwithstanding the application being granted.

9.3 In my view, the wording of the policy should require account to be taken of the manner in which the activity would not compromise the protection the value, rather than how the effects of the activity would how the activity how an individual consent application protects. This same issue arises in Policy LW3A.1.b (which is worded identically but relates to significant values). Accordingly I recommend that these clauses are amended as follows:²²

- a. the extent to which the activity would not compromise the protection of ~~protect~~ the outstanding value(s) described in Schedule 25 of the relevant outstanding water body
- b. the extent to which the activity would not compromise the protection of ~~protect~~ the significant values (if any) described in Schedule 25 of the relevant outstanding water body

9.4 In my view this revised wording would be more appropriate and would still be consistent with the Section 32 report analysis.

²⁰ The tracking shown reflects the amendments recommended by the Officers in their Report.

²¹ Pernod Ricard Further Submission regarding Hawke's Bay Winegrowers' Association Original Submission 16.1.

²² The tracking shown reflects my recommended amendments to the provisions of Policy LW3A.1.

9.5 Policy LW3A.2 as recommended by Officers in the Section 42A Report, states:²³

2. Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a noncomplying activity by a rule in a regional plan (but not a regional coastal plan):
- a. a take, use, damming, or diversion of water from an outstanding waterbody
 - b. a change to any existing take, use, damming or diversion of water from an outstanding water body
 - c. a discharge or a change or increase in any discharge of a contaminant into an outstanding water body
 - d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody
 - e. a land use consent for any new structure in the bed of an outstanding water body
 - f. a land use consent for any new or increased disturbance of the bed of an outstanding water body that is not already authorised by a current land use consent

9.6 As I understand it, the Officers identify that existing activities that are part of the existing environment would be able to continue in their current form.²⁴ However, in my view the policy does not address all aspects of the activities; e.g. transfer of water permits does not appear to be included. In addition, it appears that the policy relies on the activity status which has yet to be determined; that determination process being part of a regional plan process. In my view the policy could be made clearer if it referred to the activities themselves, rather than a yet to be determined activity status.²⁵

10 OWB Identification Framework

10.1 Finally, the Officers have recommended the addition of Table 1A Screening Framework to Schedule 25,²⁶ ²⁷ so that any future requests for the inclusion of an OWB in the Regional Policy Statement may be made in a clear and transparent manner.²⁸ I agree that this is an appropriate approach in providing clarity of process and as guidance to future catchment or Freshwater Management Unit

²³ The tracking shown reflects the amendments recommended by the Officers in their Report.

²⁴ Officers' s42A Hearing Report for PC7, Paras 353 – 359.

²⁵ Pernod Ricard Further Submission regarding Hawke's Bay Winegrowers' Association Original Submission 16.1.

²⁶ Officers' s42A Hearing Report for PC7, Page 58.

²⁷ Pernod Ricard Further Submission, regarding The Department of Conservation Original Submission 5.3.

²⁸ Officers' s42A Hearing Report for PC7, Para 412.

(FMU) plan changes (on the basis that it would be applied at the catchment planning stage to consider adding new waterbodies to Schedule 25, but not at the resource consent stage to deem additional water bodies as outstanding despite not being included in Schedule 25).

Mark St Clair

13 November 2020

Qualifications and Relevant Experience

- New Zealand Certificate in Town and Country Planning Draughting 1984;
- Bachelor of Resource and Environmental Planning, First class honours, Massey University 1994.

Professional Membership

- Full member of the New Zealand Planning Institute 1996.
- New Zealand Planning Institute Distinguished Service Award 2018.

My relevant past experience includes:

- Policy Advisor – Manawatū Whanganui Regional Council – NPS-FM 2020 Implementation Programme Farming (2020);
- Commissioner (Sole) – Palmerston North City Council and Manawatū Whanganui Regional Council – Hout Quarry (2020);
- Providing planning and resource management services to Winegrowers and individual winegrowing entities such as Pernod Ricard Winemakers New Zealand Limited, Dry River Wines, Schubert Wines – Preparation of resource consent applications for water take and use, discharge permits and activities in the beds of lakes and rivers;
- Section 87F Reporting officer, Manawatu Wanganui Regional Council for Waka Kotahi NZ Transport Agency for Te Ahu a Turanga: Manawatū-Tararua Highway (2019-2020);
- Expert Witness – Golden Bay Cement – Submissions on Marlborough Environmental Management Plan (2018);
- Commissioner (Chair) – Greater Wellington Regional Council – Proposed Natural Resources Plan (2017-19);
- Policy Advisor – Manawatū Wanganui Regional Council - Section 35: Intensive Farming (2018);
- Expert Witness – PEPANZ – South Taranaki District Council, District Plan Appeals (2018-2020);
- Section 87F officer – Manawatū Wanganui Regional Council for Horowhenua District Council Foxton Wastewater Treatment Plant applications (2017-19);
- Commissioner (Chair) – Nelson City Council – Calwell Slipway Remediation Project (2016);
- Commissioner (Chair) – Gisborne District Council – Makauri Aquifer Recharge Project (2016);
- Section 42A officer – Horizons Regional Council for Manawatū Wanganui Regional Council Lake Horowhenua Weed Harvesting, Fish Pass and Sediment Trap applications (2015);
- Section 42A officer – Manawatū Wanganui Regional Council for Midwest Disposals Ltd Bonny Glen Landfill Extension applications (2014/15);

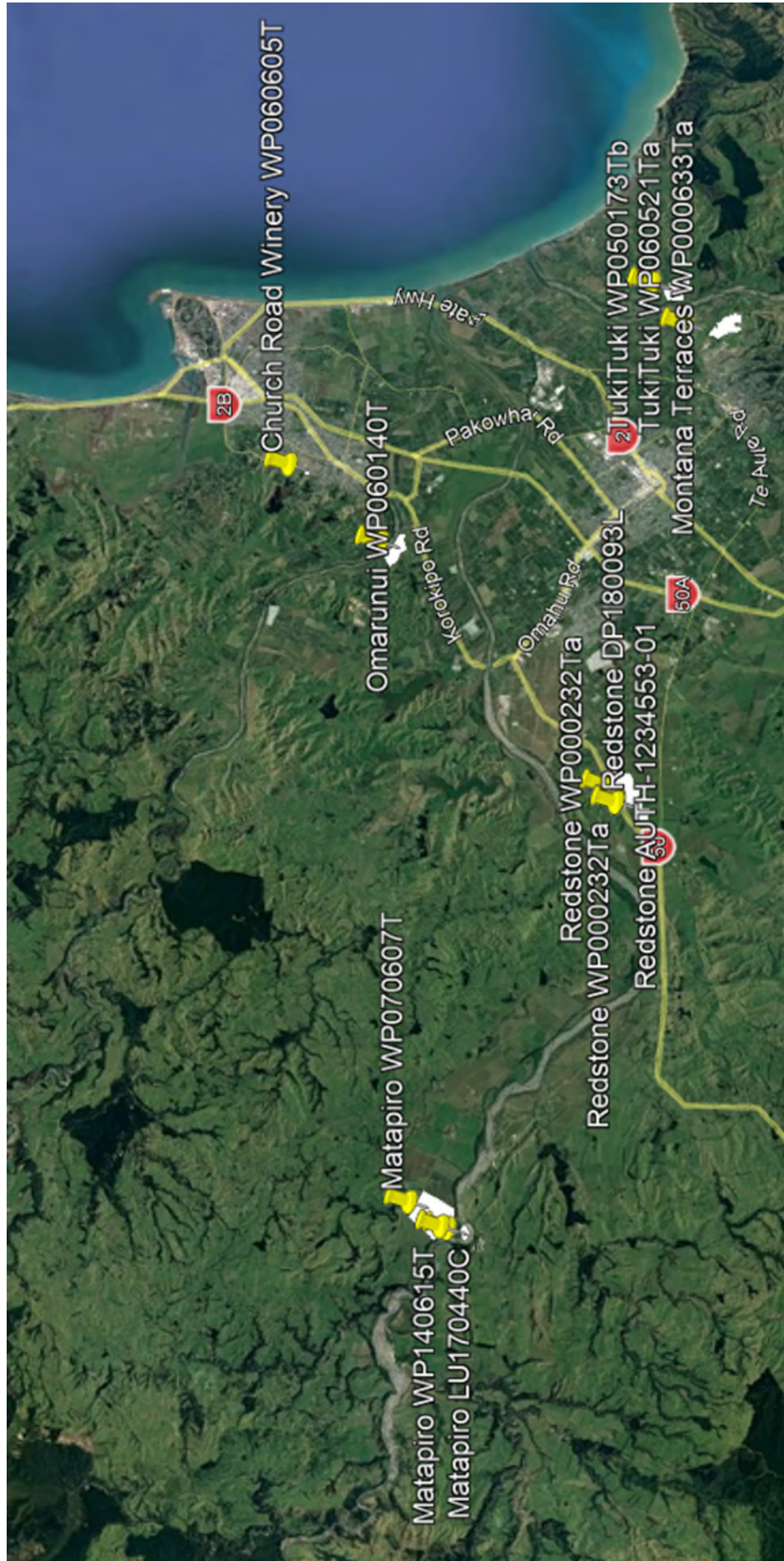
- Facilitator Pre-hearing meeting – Manawatū Wanganui Regional Council, s128 review of Palmerston North City Council, Wastewater Treatment Plant (2014);
- Advisor/Expert Witness – Planner to Board of Inquiry for Tukituki Catchment Proposal (HBRC Plan Change 6 and the Ruataniwha Water Storage Project) (2013/14);
- Friend of Submitter – Environmental Protection Authority, NZTA Basin Bridge Proposal – Notice of Requirements and Resource Consent (2013/14);
- Commissioner (Chair) – Manawatū Wanganui Regional Council, Hunterville Wastewater Treatment Plant discharge permit application(2013);
- Advisor – Environmental Protection Authority, completeness check for RMA applications for Ruataniwha Water Storage Scheme (2012/13).

Attachment B - Pernod Ricard Winemakers Limited Resource Consents Table

No.	Vineyard	Street Name	Consent Type	Legal description and Map Ref	Owner/ WP granted to	Resource Consent No.	Water take type, well number	Max rate of take/discharge (litres / sec)	Max irrigation Q / week (7 day period or 28 day period [m ³])	Consent expiry
1	Church Road Winery	150 Church Road Taradale	Water Permit	Site of take: Lot 48 DP 24407 Site of use: Lot 48 DP 24407, Sec 1 SO 9752, Lot 47 DP 24913 Map: V21 2840570 6179455	Pernod Ricard New Zealand	WP060605T	Groundwater, Well no. 4207,	3.75	413 in any 7 day period	31 May 2027
2	Montana Terraces	Te Mata Mangateretere Road	Water Permit	Site of take: Lot 1 DP 27388 Site of use: Lot 1 27387 Map: NZMG [2845580 / 6164173] NZTM [1935623 / 5602532]	Pernod Ricard New Zealand	WP000633Ta	Groundwater, Bore no. 2552,	17.4	10,495 in any 7 day period	31 May 2022
3	Matapiro	1905 Matapiro Road, Matapiro	Water Permit	Site of take: Lot 1 DP 15448 Site of use: Lot 1 DP 15448 & Lot 1 DP28701 Well 4384: V21: 2812432 6175384 Well 4393: V21: 2812577 6175373	Pernod Ricard New Zealand	WP070607T	Groundwater (wells no. 4384 & 4393)	Well 4384 – 12L/sec Well 4393 – 8L/sec	6,900 in any 7 day period	31 May 2024
4	Matapiro	1905 Matapiro Road, Matapiro	Water Permit	Site of take: Lot 1 DP 15448 Site of use: Lot 1 DP 15448 & Lot 1 DP 28701 Well no 15406: NZMG 2811585 – 6174255	Pernod Ricard Winemakers New Zealand Limited	WP140615T	Groundwater Well no. 15406 adjacent to Ngaruroro River	136 when River flow (measured at Whanawhana measuring site) exceeds 12,800 (high flow); 46 when River flow is at or below 12,800 (low flow); Ban when river flow is at or below 2,400l/s – low flow shut down	Filling Reservoir 326,976m ³ in any month (River at more than 12,000 litres per second) 109,248m ³ in any month (River at less than 12,000 litres per second) Direct irrigation 146,435m ³ in any month 340,244m ³ in any 12 months period – 1 July to 30 June.	31 May 2025
5	Matapiro	1905 Matapiro Road, Matapiro	Land Use	Ngaruroro River, adjacent to Lot 1 DP 15488	Pernod Ricard Winemakers New Zealand Limited	LU170440C	Undertake excavation in the bed of the Ngaruroro River – to channel water over the infiltration gallery.	N/A		31 May 2025
6	Redstone	State Highway 50, Ngatarawa	Water Permit	Legal description (site of taking): Lot 1 DP 20958, Lot 1 DP 22100 and Lot 1 DP 21955 Legal description (site of usage): Lots 1 & 2 DP 20958, Pt Lot 1 DP 22100, Section 4 SO 331853, Lots 1 and 2 DP 22100, Lot 1 DP21955 and Lot 1 DP 26247 Map reference: Well No. 1225 - 2828204 – 6167783	Pernod Ricard New Zealand Limited	WP000232Ta	Groundwater (bore permits, 1225, 4153 and 16401)	Combined rate 82.7 Litres per second Bore 1225 rate 30 Litres per second Bore 4153 rate 30 litres per second Bore 16401 rate 22.7 litres per second	136,00 cubic metres in any 28 day period 512,800 cubic metres with 12 month period (1 July – 30 June)	31 May 2019 (replacement consent applied for on 12 October 2018).

No.	Vineyard	Street Name	Consent Type	Legal description and Map Ref	Owner/ WP granted to	Resource Consent No.	Water take type, well number	Max rate of take/discharge (litres / sec)	Max irrigation Q / week (7 day period or 28 day period [m ³])	Consent expiry
				Well No. 4153 - 2827558 – 6167421 Well No. 16401 - 2828656 – 6168372						
7	Redstone	2763 State Highway 50, Ngatarawa	Discharge Permit (Domestic effluent)	Legal Lot 1 and 2, DP 20958, Map reference: 2827553 - 6167404	Pernod Ricard New Zealand	AUTH-1234553-01		1.4m ³ over any 7 day period		31 May 2030
8	Redstone	2763 State Highway 50, Ngatarawa	Discharge Permit (Machinery Washdown Pad))	Legal description: Lot 1, DP 20958, Map reference: 2827557 - 6167420	Pernod Ricard Winemakers New Zealand Limited	DP180093L		21m ³ over any 7 day period within the months of March and April 1.05m ³ over any 7 day period at all other times		31 May 2038
9	Omarunui	149 Omarunui Road, Waiohiki	Water Permit	Legal description Site of take: Lot 1 DP 16362 Site of use: Lots 1 & 2 DP 16362 Map reference: Well 15273: 2837632 6176068	Pernod Ricard New Zealand	WP060140T	Groundwater (well no. 15273)	28.3	4,600 in any 7 day period	31 May 2028
10	TukiTuki	482 Tukituki Road, Haumoana		Legal description Site of take and use: Lot 3 DP 27490 Map reference Well No. 3655: 2847185 6165729	Pernod Ricard New Zealand	WP060521Ta	Groundwater (well no. 3655) (same as below)	18.9	9,406 in any 7 day period	31 May 2025
11	TukiTuki	482 Tukituki Road, Haumoana		Legal description Site of take and use: Lot 3 DP 27490 Map reference Well No. 3655: 2847185 6165729	Pernod Ricard New Zealand	WP050173Tb	Groundwater (bore no. 3655) (same as above)	18.9	9,406 in any 7 day period	31 May 2025

Attachment C - Pernod Ricard Winemakers Limited Vineyards



IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Plan Change 7 – Outstanding
Water Bodies to the Hawke’s Bay Regional
Resource Management Plan

AND

IN THE MATTER of submissions by Ravensdown Limited
(Submitter No. 33)

STATEMENT OF EVIDENCE OF CARMEN WENDY TAYLOR

ON BEHALF OF RAVENSDOWN LIMITED

13 NOVEMBER 2020

SUMMARY

- A. Ravensdown Limited (**Ravensdown**) lodged submissions on the Proposed Plan Change 7 – Outstanding Water Bodies (**PC7**) to the Hawke’s Bay Regional Resource Management Plan (**HBRRMP**). I prepared the submission on behalf of Ravensdown.
- B. PC7 identifies the region’s proposed Outstanding Water Bodies (**OWB**) and associated outstanding values and seeks to protect the outstanding and significant values associated with OWBs. PC7 also provides policy guidance in relation to the regional plan and/or plan change process, that is still to occur, in order to fully develop the resource management framework for the region's OWBs.
- C. Accordingly, in this context, PC7 delivers on the requirements of the National Policy Statement for Freshwater Management 2014 (amended 2017), which applied at the time PC7 was notified, and the National Policy Statement for Freshwater Management 2020, for regional councils to identify OWBs and to provide for the protection of the values (outstanding and/or significant) associated with a region's OWBs.
- D. Ravensdown, in its submission, supported the purpose of PC7. However, while supporting PC7, Ravensdown sought amendments that would recognise existing industrial (and commercial) water uses, such as those associated with Ravensdown's Napier Works, particularly in relation to the Works as a user of water in the catchments of two identified OWBs, namely the Ngaruroro River and Estuary (ID#18 in Schedule 25 of PC7) and the Tūtaekurī River (ID#32 in Schedule 25 of PC7). A number of other amendments were also requested.
- E. While I generally support PC7, my evidence traverses two key outstanding matters arising from Ravensdown's submission, and two other matters. Given the matters traversed in my evidence, I outline a number of amendments to PC7 provisions that I consider are necessary to provide for an appropriate resource management framework for OWBs.
- F. The first issue relates to the policy guidance provided in Policies LW1.2, C1 and C2 where these policies seek to ensure that adverse effects on the region's OWB's outstanding and significant values are avoided. As discussion in **Section 3** of my evidence, the policy direction that should be accommodated within these policies should be to ensure that future regional plans (or plan changes), or decision-making processes, ensure that the values associated with OWBs, as identified in Schedule 25, are protected, and in the context of Policies C1 and C2 that adverse effects are avoided, remedied or mitigated (as required by the New Zealand Coastal Policy Statement 2010). In my opinion, this approach enables a more evaluative process to occur when developing the resource management framework that applies to the region's OWBs.
- G. The second issue relates to the identification of specific human related water uses as significant values in the Ngaruroro River and Estuary and Tūtaekurī River OWBs. At present, the relevant significant value identifies water uses associated with primary production and associated processing and urban activities, but not all of the human related water uses associated with these catchments, including Ravensdown's industrial use at the Napier Works. For the reasons outlined in

Section 4 of my evidence, I consider that this significant value needs to be amended to also include industrial and commercial water uses. Consequential amendments to other OWBs, including (but not limited to) the Heretaunga Aquifer (ID#2 of Schedule 25) from which Ravensdown takes groundwater, also arise from this requested amendment.

- H. The other matters, as discussed in **Section 5** of my evidence, relate to the definition for OWBs and 'Overview of Categories of Outstanding Values and their Sub-parts' as contained in Part 1 of Schedule 1.
- I. In relation to the OWB definition, in my opinion, 'geology' in the context of OWBs is connected to landscape and natural character (including hydrological characteristics) values and therefore should not be included in the definition. I also consider that some of the terms used in the definition require amendment so that the correct terms are being used (i.e., recreational and ecological). The amendments requested give rise to a range of consequential amendments throughout PC7.
- J. In relation to Part 1 of Schedule 25, I consider that this part of the schedule still needs to be 'tidied up' to address the issues raised by Ravensdown in its submission.
- K. The specific amendments being sought to the section 42A Report recommendations, as discussed within my evidence, are provided in the table contained in **Appendix B** of my evidence.

1. INTRODUCTION

Background - My Role for Ravensdown Limited

- 1.1 My name is Carmen Wendy Taylor. I am a Consultant Planner, and Associate, at Planz Consultants Limited (**Planz**).
- 1.2 Ravensdown Limited (**Ravensdown**) lodged submissions on the Proposed Plan Change 7 – Outstanding Water Bodies (**PC7**) to the Hawke’s Bay Regional Resource Management Plan (**HBRMP**). I prepared the submission on behalf of Ravensdown. Ravensdown did not prepare further submissions on PC7.
- 1.3 An overview of my expert qualifications and experience are set out in **Appendix A** of my evidence.

Code of Conduct

- 1.4 Whilst this is a Council Hearing, I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court updated Practice Note 2014, and agree to comply with it. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2. SCOPE OF EVIDENCE

- 2.1 As background, Ravensdown in its submission on PC7 (dated 28 February 2020), stated that it generally supported PC7’s identification of Outstanding Water Bodies (**OWB**) and associated outstanding values, the objective to protect outstanding and significant values associated with OWBs and the policy guidance provided in relation to the plan change process, that is still to occur, to fully develop the resource management framework for the region’s OWBs.
- 2.2 However, while supporting PC7, Ravensdown through its submission sought amendments that would recognise existing industrial (and commercial) water uses, such as those associated with Ravensdown’s Napier Works. The Napier Works, as outlined by Ms Wilkes in her evidence, is a user of water in the catchments of three identified OWBs, the Heretaunga Aquifer (ID#2 of Schedule 25 of PC7), Ngaruroro River and Estuary (ID#18 in Schedule 25 of PC7) and the Tūtaekurī River (ID#32 in Schedule 25 of PC7).
- 2.3 The focus of my evidence therefore aligns with the focus of Ravensdown’s submission. In this context, as Ravensdown did not participate in the identification of OWBs and their values (i.e., prior to the notification of PC7), and given that Ravensdown stated that they generally supported the proposed OWBs and associated outstanding values, my evidence does not specifically address these aspects of PC7 or the broader OWB resource management approach contained in PC7.

- 2.4 Having reviewed the section 42A Report¹, Ravensdown has decided to present company and planning evidence traversing matters arising from Ravensdown's submission points.
- 2.5 Ravensdown's company evidence, which I have read and considered in preparing my evidence, has been prepared by Ms Anna Wilkes, Ravensdown's Environmental and Policy Manager. Ms Wilkes' evidence outlines Ravensdown's general interest in regulatory processes, and more specifically Ravensdown's specific interest in PC7 given its operations at the Napier Works.
- 2.6 Based on my review of the section 42A Report and given the focus of Ravensdown's submission, my evidence addresses the following matters:
- (a) In **Section 3** of my evidence, I discuss '**Policies LW1.2, C1 and C2 – 'Avoidance' of Adverse Effects**' and seek amendments to these policies where they currently seek to avoid adverse effects on the values associated with the identified OWBs;
 - (b) In **Section 4** of my evidence I discuss '**Significant Values of Outstanding Water Bodies – Industrial and Commercial Water Uses**' in the context of Ravensdown's submission on these matters;
 - (c) **Section 6** covers two '**Other Matters**' arising from Ravensdown's submissions, namely the definition of 'Outstanding Water Bodies' and the Overview of categories of outstanding values and their sub-parts contained in Part 1 of Schedule 25 of PC7; and
 - (d) A '**Conclusion**' to my evidence is provided in **Section 6**.
- 2.7 **Appendix B** of my evidence contains the provisions of PC7 which Ravensdown submitted on. Alongside these provisions I have identified, based on matters traversed in my evidence, as well as Ravensdown's evidence, whether their retention (acceptance of the section 42A Report's recommendations) is supported or further amendments are being sought. On occasion, I have also provided some additional comment or observations in **Appendix B** in relation to some PC7 provisions (i.e., the new Part 2 in Schedule 25).

3. **POLICIES LW1.2, C1 AND C2 – 'AVOIDANCE' OF ADVERSE EFFECTS**

Background

- 3.1 Policies LW1.2, C1 and C2 are contained in Chapter 3 (Regionally Significant Issues, Objectives and Policies) of the HBRRMP. This chapter, along with Chapters 1, 2 and 4, contain the region's regional policy statement.
- 3.2 The operative provisions of Policy LW1.2 identify the matters to be considered when preparing regional plans (or plan changes). As an overview, the notified PC7 amendments to this policy, as contained in Part (bA), requires future regional plans (or plan changes) to: identify the significant values of the OWBs contained in Schedule

¹ Throughout my evidence, when referring to the 'section 42A Report', I am referring to the document, and associated appendices (Appendices 1 to 10), titled "*Hawke's Bay Regional Resource Management Plan – Proposed Plan Change 7 – Outstanding Water Bodies – Officer's s42A Hearing Report*", dated October 2020.

25 and the spatial and temporal extent of significant values; include methods (regulatory and non-regulatory) which will ensure that OWB values are protected; and, include provisions which will ensure that more than minor effects on the OWB identified values are avoided.

- 3.3 PC7 introduced new Policies C1 and C2. These policies are contained in the Chapter 3.2 (The Sustainable Management of Coastal Resources) of the HBRRMP and relate to OWBs where they are located or extend into the coastal environment (including the coastal marine area (CMA)).
- 3.4 Policy C1, as notified, outlined the problem-solving approach to be adopted to achieve catchment-based integrated management of the region's OWBs within the coastal environment. In this context, the policy, consistent with Policy LW1.2, identifies the matters to be considered when preparing regional plans (or plan changes).
- 3.5 Policy C2, as notified, outlined the decision-making criteria for OWBs in the coastal environment once the relevant catchment-based regional plan (or plan change) is operative, or after 31 December 2025, whichever is sooner. This policy was similar to Policy LW3A which applies to OWBs outside of the coastal environment and CMA.

Ravensdown's Submission

- 3.6 Ravensdown, in its submission, supported, in part, Policies LW1.2, C1 and C2.
- 3.7 Ravensdown supported the clear articulation in Policies LW1.2 and C1 that while OWBs have been identified in Schedule 25, PC7 is the first step in implementing Objective LW1 (as amended by PC7). Ravensdown's submission outlined that it also generally considered that the information to be considered and developed as part of the regional plan (or plan change) development process in relation to the future management of OWBs was generally appropriate.
- 3.8 However, an amendment sought by Ravensdown on both of these policies, which is a matter addressed within my evidence, related to the use of the word 'avoid' in Part (bA)(iii) of Policy LW1.2 and Part (1)(iii) of Policy C1. The issue, as outlined in Ravensdown's submission, was that in the context of policy development processes, requiring the avoidance of adverse effects can be problematic as it essentially infers prohibited activity status for activities. Ravensdown submission, given the aim of Objectives LW1.1 and 11 to protect the outstanding and significant values of OWBs, requested the following amendment to Part (bA)(iii) of Policy LW1.2 and Part (1)(iii) of Policy C1:

include regional plan provisions to manage activities in a manner which ~~avoids adverse effects that are more than minor on~~ protects the outstanding and significant values of an outstanding water body identified in Schedule 25.

- 3.9 In relation to Policy C2, Ravensdown supported the clear statement that the decision-making criteria outlined in the policy does not apply until the resource management framework for an OWB has been fully developed (unless this is not achieved by 31 December 2025). Ravensdown, in its submission, also stated that it considered that the criteria outlined in Part (1) of this policy was appropriately focussed on the potential effects an activity has on the identified OWB outstanding and significant values. Ravensdown's submission did seek amendments to Parts (2)(c) and (d) of the

policy, but these specific amendments are no longer being sought by Ravensdown (refer to **Appendix B** of my evidence).

Recommendations of the section 42A Report

- 3.10 In terms of the section 42A Report's recommendations, Appendix 2 of the section 42A Report identifies that the requested replacement of word the 'avoid' in Part (bA)(iii) of Policy LW1.2 and Part (1)(iii) of Policy C1 is rejected.
- 3.11 Although I could not find any direct assessment of the issue raised in Ravensdown's submission within the section 42A Report, Appendix 1 of the section 42A Report has retained Part (bA)(iii) of Policy LW1.2, as notified.
- 3.12 The section 42A Report recommends a number of changes to Policies C1 and C2 in response to the specific requirements contained in Policies 11, 13 and 15 of the New Zealand Coastal Policy Statement 2010 (**NZCPS**). These policies are as follows:

Policy 11 - Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- (a) *avoid adverse effects of activities on:*
- (i) *indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
 - (ii) *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - (iii) *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
 - (iv) *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
 - (v) *areas containing nationally significant examples of indigenous community types; and*
 - (vi) *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- (b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
- (i) *areas of predominantly indigenous vegetation in the coastal environment;*
 - (ii) *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
 - (iii) *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
 - (iv) *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
 - (v) *habitats, including areas and routes, important to migratory species; and*
 - (vi) *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

Policy 13 - Preservation of natural character

- (1) *To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:*
- (a) *avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and*
 - (b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;*

including by:

- (c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and
- (d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions. ...

Policy 15 - Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:

- (a) avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and
- (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment;

including by: ...

3.13 In response to submissions from other parties, the section 42A Report² considered that the NZCPS national policy direction was more restrictive than the freshwater management national policy statement in terms of managing the values set out in the NZCPS policies and requiring adverse effects to be avoided in some instances. The section 42A Report therefore recommended that in order to ensure clarity for future plan users that amendments to Policies C1 and C2 were required to clearly specify that the policy direction of the NZCPS takes precedence in the coastal environment when preparing regional plans or making decisions on applications.

3.14 On the above basis, the section 42 Report has recommended that Policies C1 and C2 are amended (tracked changes show the changes to the notified version recommended in the section 42A Report), as follows:

POL C1 - Problem solving approach – outstanding water bodies in the coastal environment

1. When preparing regional plans, in relation to any relevant outstanding water bodies identified in Schedule 25:

...

- ii) Include ~~regional plan~~ provisions to manage activities in a manner which: ~~avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.~~
 - a. avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25 to give effect to Policy 11(a) of the New Zealand Coastal Policy Statement 2010;
 - b. avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13(a) and 15(a) of the New Zealand Coastal Policy Statement 2010;
 - c. avoids adverse effects that are more than minor on any other outstanding and significant values identified in Schedule 25.

² As assessed in Reports 5.2 and 5.3 of the section 42A Report.

Policy C2 - Decision Making Criteria – Outstanding Water Bodies in the coastal environment

1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:

...

e. When protecting outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25, adverse effects must be avoided pursuant to Policy 11(a) of the New Zealand Coastal Policy Statement 2010.

f. When protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25, adverse effects must be avoided pursuant to Policies 13(a) and 15(a) of the New Zealand Coastal Policy Statement 2010.

Discussion – Policy LW1.2

- 3.15 In relation to Part (bA)(iii) of Policy LW1.2, the section 42A Report has not clearly assessed the issue raised in Ravensdown’s submission in relation to the use of the word ‘avoid’ and its implications for potential prohibited activity rules. The issue referred to in Ravensdown’s submission arises from the Supreme Court decision in Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2014] NZSC 38 (the **King Salmon Decision**).
- 3.16 In my opinion, ensuring that regional plans (or plan changes) contain provisions that manage activities in a manner that protects the outstanding and significant values of OWBs is the policy direction that should be accommodated within this policy given that this aim is consistent with Objective LW1. In this context, protection of OWB values could be achieved by putting in place a range of methods in regional plans (or plan changes) that avoid, remedy or mitigate adverse effects, rather than solely avoid adverse effects (that are more than minor). This approach enables a more evaluative process to occur when developing the resource management framework contained within regional plans, or plan changes, that will apply to resource use activities within the region’s OWBs.
- 3.17 For the above reasons, I consider that the amendment to Part (bA)(iii) of Policy LW1.2 as sought by Ravensdown in its submission, as provided in paragraph 3.26(a) below, is appropriate. The proposed amendment ensures that the restrictions that are likely to be associated with the sole use of the word ‘avoid’ within this policy, and the legal context within which this word is seen, do not arise.

Discussion – Policies C1 and C2

- 3.18 I agree that the NZPCS policies relevant to OWBs in the coastal environment and the CMA place specific additional restrictions on resource use activities that have the potential to adversely affect relevant OWB identified values.
- 3.19 However, I do not interpret Policies 11, 13 and 15 of the NZPCS in the same black and white manner as seems to have occurred within the section 42A Report. The section 42A Report’s recommended amendments to Policies C1 and C2 state that adverse effects on outstanding and significant indigenous biological diversity values,

outstanding natural character values, outstanding natural features values, outstanding natural landscape values and other outstanding and significant values are to be avoided.

- 3.20 In my opinion, the section 42A report's recommended wording of Policies C1 and C2 would effectively prohibit activities from having any adverse effects whatsoever in the circumstances described by Parts (1)(ii)(a) and (b) of Policy C1 and Parts (1)(e) and (f) of Policy C2, and prohibit activities where effects are more than minor in the circumstances described by Part (1)(ii)(c) of Policy C1. This could result in a rule regime for activities in the coastal environment which is very restrictive without the ability to assess the adverse effects of specific activities and the values associated with the area where the proposed activity is to take place.
- 3.21 I agree that Part (1)(a) of Policy 13 states that adverse effects on outstanding natural character are to be avoided, and that Part (a) of Policy 15 states that adverse effects on outstanding natural features and outstanding natural landscapes are to be avoided. However, I do not consider that the relevant NZCPS policies are as restrictive in relation to indigenous biological diversity values or other outstanding and significant values that may be associated with the region's OWBs located within the coastal environment.
- 3.22 In relation to indigenous biological diversity, Policy 11 seeks to protect indigenous biological diversity in the coastal environment, by avoiding adverse effects of activities on the range of such values listed in Part (a) of the policy. However, Part (b) then seeks to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on a range of other indigenous biological diversity values.
- 3.23 As I understand it, as the ecological values associated with the OWBs, where they extend into the coastal environments, are not identified in strict adherence with Part (a) of Policy 11, I do not consider it appropriate to specify that adverse effects on the OWBs outstanding indigenous biological diversity are to be solely avoided. In my opinion, Part (1)(ii)(a) of Policy C1 and Part (1)(e) of Policy C2 should accommodate the need to avoid, remedy or mitigate adverse effects in order to give effect to Policy 11 (not just Policy 11(a)).
- 3.24 In relation to Part (1)(ii)(c) of Policy C2, as discussed above in relation to Policy LW1.2 (paragraphs 3.15 to 3.17), ensuring that regional plans (or plan changes) contain provisions that manage activities in a manner that protects the outstanding and significant values of OWBs is the policy direction that should be accommodated within this part of the policy given that this aim is consistent with Objective 11. The protection of OWB values within the coastal environment could be achieved by putting in place a range of methods in regional plans (or plan changes) that avoid, remedy or mitigate adverse effects, rather than solely avoid adverse effects (that are more than minor). As previously discussed, this approach enables a more evaluative process to occur when developing the resource management frameworks.
- 3.25 For the above reasons, I consider that amendments to Policies C1 and C2 are required, as provided in paragraph 3.26(b) and (c) below. My proposed amendments ensure that undue restrictions that are likely to be associated with the sole use of the word 'avoid', given its now established legal meaning, within this policy do not arise.

Summary

3.26 For the reasons outlined above, I consider that the recommended amendments to Policies LW1.2, C1 and C2 should be amended, with the amendments that I am proposing beyond those contained in Appendix 1 of the section 42A Report shown in tracked changes, as follows:

(a) Amend Part (bA)(iii) of Policy LW1.2 as follows:

- iii) *include regional plan provisions to manage activities in a manner which ~~avoids adverse effects that are more than minor on~~ protects the outstanding and significant values of an outstanding water body identified in Schedule 25.*

(b) Amend Part (1) of Policy C1 as follows:

- ...
 - ii) *Include provisions to manage activities in a manner which:
 - a. *avoids, remedies or mitigates adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25 to give effect to Policy 11~~(a)~~ of the New Zealand Coastal Policy Statement 2010;*
 - b. *avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13~~(1)~~(a) and 15(a) of the New Zealand Coastal Policy Statement 2010;*
 - c. *~~avoids adverse effects that are more than minor on~~ protects any other outstanding and significant values identified in Schedule 25.**

(c) Amend Policy C2 as follows:

- ...
 - e. *~~When p~~Protecting outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25, by avoiding, remedying or mitigating adverse effects ~~must be avoided~~ pursuant to Policy 11~~(a)~~ of the New Zealand Coastal Policy Statement 2010.*
 - f. *~~When p~~Protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25, by avoiding adverse effects ~~must be avoided~~ pursuant to Policies 13~~(1)~~(a) and 15(a) of the New Zealand Coastal Policy Statement 2010.*

4. SIGNIFICANT VALUES OF OUTSTANDING WATER BODIES - INDUSTRIAL AND COMMERCIAL WATER USES

Background

4.1 PC7 was notified in accordance with the provisions of the National Policy Statement for Freshwater Management 2014 (amended 2017) (NPS-FM 2017). Since the notification of PC7 the National Policy Statement for Freshwater Management 2020 (NPS-FM 2020) has come into force, thus replacing the NPS-FM 2017.

- 4.2 The NPS-FM 2017 defines ‘outstanding freshwater bodies’ as water bodies identified in regional policy statements or regional plans that have **outstanding values** (my emphasis) including ecological, landscape, recreational and spiritual values. **Objective A2** of the NPS-FM 2017 seeks to ensure that the quality of freshwater is maintained or improved, while also, amongst a number of requirements, protecting the **significant values** (my emphasis) of outstanding freshwater bodies. **Objective B4** also seeks to protect the **significant values** (my emphasis) of outstanding freshwater bodies.
- 4.3 The NPS-FM 2020, which came into effect on 7 September 2020, defines an ‘outstanding water body’ as a water body, or part of a water body, identified in regional policy statements, regional plans or water conservation orders, that have one or more **outstanding values** (my emphasis). Policy 8 aims to protect the **significant values** (my emphasis) of outstanding water bodies. Clause 3.8(3) requires regional councils to identify OWBs, within each Freshwater Management Unit, as part of the National Objectives Framework process under the NPS-FM 2020.
- 4.4 ‘Outstanding values’ and ‘significant values’ are not defined in either the NPS-FM 2017 or the NPS-FM 2020.
- 4.5 The above background, provides the context for the development of PC7, namely the identification of OWBs, and associated values of OWBs, as identified the region’s regional plan (i.e., the HBRRMP).
- 4.6 This background also identifies the lack of consistency within both the NPS-FM 2017 and NPS-FM 2020 in terms of OWBs are characterised by outstanding or significant values. I do not propose to get into this debate within my evidence. However, I will say, as already outlined in paragraphs 2.1 to 2.3 of my evidence and as stated in Ravensdown’s submission, that I support PC7’s identification of the proposed OWBs and associated outstanding values and the aim to protect both outstanding and significant values associated with OWBs. I also consider that the proposed hierarchy whereby outstanding values of OWBs take priority over identified significant values where there is a conflict, is appropriate.
- 4.7 Given the above background, and the nature and focus of Ravensdown’s submission, this section of my evidence relates to the inclusion of significant values, namely industrial (and commercial) uses, that should apply to relevant OWBs, particularly the two OWBs associated with Ravensdown’s Napier Works (i.e., the Ngaruroro River and Estuary (ID#18 in Schedule 25) and the Tūtaekurī River (ID#32 in Schedule 25)).

Ravensdown’s Submission

- 4.8 While PC7, as notified, did not generally identify the significant values associated with the OWBs contained in Schedule 25, it did list some significant values (but not associated descriptions). This included identification of the significant values of the OWBs in the Tutāekurī, Ahuriri, Ngaruroro and Karamu catchments (**TANK catchments**), as these values had been identified as part of the TANK plan change that was in process (although not yet notified when PC7 was notified).
- 4.9 Ravensdown’s Napier Works takes groundwater and discharges stormwater (and other process water) in the catchments associated with the ‘Ngaruroro River and Estuary’, the ‘Tūtaekurī River’, and also the ‘Heretaunga Aquifer’. These water bodies

have been identified as OWBs in Schedule 25 of PC7 (ID#18, ID#32 and ID#2). Water uses identified as significant values associated with these OWBs includes water supplies (domestic as well as municipal in the Heretaunga Aquifer OWB) and the following:

Primary production water use (including for associated processing and other urban activities).

- 4.10 Ravensdown submitted on both the Ngaruroro River and Estuary and Tūtaekurī River OWBs. Ravensdown supported, in part, the identification of these OWBs. In its submission, Ravensdown also identified that it did not oppose the outstanding values or the majority of the significant values associated with these OWBs.
- 4.11 However, given the presence of Ravensdown’s Napier Works, and associated water use activities, within the catchments associated with these OWBs, Ravensdown considered that the identified significant values that related to water use activities did not appropriately recognise or provide for industrial water activities (i.e., its water use activities are not a domestic water supply, nor is it associated with primary production and associated processing, or other urban activities). Ravensdown, in its submission, also noted that the identification of primary production water and ‘other related urban activities’ is confusing.
- 4.12 Given these issues, Ravensdown requested amendments to the ‘primary production water use’ significant value that would ensure that industrial water uses were recognised alongside other human related water uses. For the purpose of completeness, Ravensdown also considered that the use of water by commercial activities should be included as part of this significant value. I note that ‘commercial and industrial use’ is an ‘other value’ identified in Appendix 1B of the NPS-FM 2020.
- 4.13 For the above reasons, Ravensdown requested an amendment to the following significant value that applied to both the Ngaruroro River and Estuary and Tūtaekurī River OWBs:

Primary production, industrial and commercial water use (including for associated processing and other urban activities).

- 4.14 Ravensdown’s submission also identified that potential consequential amendments to Schedule 25 arises out of this request.

Recommendations of the section 42A Report

- 4.15 The section 42A Report recommends the rejection of Ravensdown’s submission points. The section 42A Report also recommends the retention of the above significant value, as listed in the relevant OWBs, as notified.
- 4.16 In relation to the significant values associated with the TANK catchments, and thus the changes requested by Ravensdown, the section 42A Report states:

The significant values set out in Schedule 25 are related to those water bodies in the TANK catchment and have been identified through preparation of the Change 9 TANK Plan with tāngata whenua and the community. The Change 9 hearings are scheduled for May 2021 where the significant values associated with OWB in the TANK catchment will likely be further discussed.

...

At the time of writing, no further information or detail has been provided from the TANK Group around the significant values associated with OWB in the TANK catchments. As such, Change 7 reporting officers do not have adequate information to recommend any updates to the significant value descriptions³.

4.17 The section 42A Report then makes the following preliminary recommendation in relation to the significant values associated with the TANK catchments:

(c) That Change 7 not be amended to provide further detail or updates to the significant values, and associated descriptions, for water bodies in the TANK catchments.⁴

4.18 Although not relevant to the matters raised in Ravensdown's submission, I also note that the section 42A Report recommends that economic and consumptive uses should not be included as outstanding values⁵. However, the section 42A Report also states:

Notwithstanding, while the NPSFM never intended for economic and consumptive use values to be classed as outstanding, its current wording theoretically does not preclude their inclusion if the Panel wished to do so⁶.

Discussion

4.19 I consider that the reasons for rejecting Ravensdown's submission misrepresent the situation.

4.20 PC7 has included significant values for some OWBs, including the TANK catchments, in Schedule 25. While the TANK catchments Plan (**PC9**) was notified in May 2020, PC9 did not propose any amendments or changes to Schedule 25 of the HBRMP. Therefore, there is no mechanism through PC9, as suggested in the section 42A Report, for the significant values associated with the identified OWBs in the TANK catchments to be amended.

4.21 While I acknowledge that some other future plan change could amend these significant values, in the intervening time period the PC7 significant values contained in Schedule 25 will be retained for the foreseeable future. For these reasons, I consider that it is important that the issues identified in Ravensdown's submission are addressed as part of this PC7 process.

4.22 In my opinion, it is important that the identification of the significant values associated with the Ngaruroro River and Estuary and Tūtaekurī River OWBs identify all relevant human related water uses that occur within these catchments (not just a selected few). This includes industrial and commercial water uses, as well as the water uses already identified in the significant value under contention, namely water uses associated with primary production and associated processing and urban activities.

4.23 If these existing water uses which are located within OWBs (and their catchments) are not recognised, there is the potential that a range of the region's existing activities which provide for people's social and economic well-being, may not be able to gain resource consents in the future. Thus, they may not be able to operate. In the context of Ravensdown's Napier Works, as discussed by Ms Wilkes in her evidence, if

³ Paragraphs 217 and 219 of the section 42A Report.

⁴ 'Officer's preliminary recommendation' on Report 2.3.

⁵ Paragraph 186 of the section 42A Report.

⁶ At paragraph 187 of the section 42A Report.

Ravensdown cannot access water (that is available within the allocation framework established in the HBRRMP) or discharge stormwater (and other process water), with appropriate treatment, then the Napier Works will no longer be able to operate.

- 4.24 I also consider that without the amendments requested by Ravensdown, the current wording of the significant value is confusing and does not necessarily make sense. The currently wording infers that the identified significant value solely relates to primary production water use, but then also refers to 'other urban activities' when primary production activities are not an urban activity.

Summary

- 4.25 For the reasons outlined above, I consider that the water use significant value associated with Ngaruroro River and Estuary and Tūtaekurī River OWBs (ID#18 and ID#32) should be amended as follows:

*Primary production, **industrial and commercial** water use (including for associated processing and other urban activities).*

- 4.26 For the purpose of consistency throughout Schedule 25, and as a consequential amendment (as requested in Ravensdown's submission), the same changes, where such human related water uses occur, should also be made to the above significant value where it is identified as being associated with an OWB.

5. OTHER MATTERS

'Outstanding Water Bodies' Definition

- 5.1 The NPS-FM 2017, which was in force at the time PC7 was notified, defined 'outstanding freshwater bodies' as:

***Outstanding freshwater bodies** are those water bodies identified in a regional policy statement or regional plan as having outstanding values, including ecological, landscape, recreational and spiritual values.*

- 5.2 The NPS-FM 2020 defines an 'outstanding water body' as:

***Outstanding water body** means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values.*

- 5.3 As stated in the previous section of my evidence (**Section 4**), neither the NPS-FM 2017 or the NPS-FM 2020 defines outstanding values (or significant values).

- 5.4 Although PC7 was notified in February 2020 when the NPS-FM 2017 was in force, PC7 included a definition for an 'outstanding water body', rather a 'freshwater body' as the OWBs included in Schedule 25 of PC7, and their associated values, spanned both freshwater and coastal systems. For this reason, the notified PC7 definition for OWBs was as follows:

***Outstanding water body** means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s).*

- 5.5 In my opinion, the notified PC7 definition is not inconsistent with the NPS-FM 2017, and is consistent with the NPS-FM 2020 definition.

- 5.6 Ravensdown, in its submission, supported the definition on the basis that it provided a degree of clarity for resource users. While supporting the definition, the submission raised two issues and requested associated amendments.
- 5.7 The first issue raised was that the inclusion of ‘geology’ as an outstanding value in the context of OWBs. The submission stated that ‘geology’ is the science that deals with physical structure and substance of the earth, their history and processes which act on them. In this context, the submission then outlined that in the context of the region’s OWBs, the influence of ‘geology values’ will be associated with landscape considerations or potentially the flow characteristics of the water body. As landscape and natural character values are included as outstanding values in the proposed definition of OWBs, the submission then stated that the inclusion of ‘geology’ in the definition was not appropriate and should be deleted. Ravensdown’s submission also identified that there would be consequential amendments arising from the requested deletion of geology from the OWB definition (i.e., removal of ‘geology’ from throughout Schedule 25 of PC7).
- 5.8 The second issue, as outlined in the submission, was that the definition should refer to ‘recreational’ and ‘ecological’ values, rather than ‘recreation’ and ‘ecology’ values. These amendments were requested to ensure that the correct terms were being used and / or to provide consistency. In relation to the use of the correct term, the submission outlined that ‘ecology’ is the study of interactions of organisms and their biophysical environment. On this basis, I consider that OWB definition should refer to the ecological values associated with an OWB, not ecology as an area of scientific study.
- 5.9 Given the above issues, Ravensdown’s submission requested the following amendments to the OWB definition:
- Outstanding water body** means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreational, landscape, ~~geology~~, natural character or ~~ecological~~ values(s).*
- 5.10 The section 42A Report recommends retaining the OWB definition as notified (refer to paragraph 5.4 above) and therefore has rejected Ravensdown’s submission. While the section 42A Report does not specifically assess Ravensdown’s request in relation to recreational and ecological values, the section 42A Report rejects the requested deletion of ‘geology’ as an outstanding value on the basis that:
- This value set includes those geological features dependant on water bodies such as caves, karsts and gorges, and is relevant to landscape, scenic and scientific values.⁷*
- 5.11 In my opinion, the issues raised by Ravensdown in its submission remain valid and PC7’s OWB definition should be amended as requested by Ravensdown (refer to paragraph 5.9 above).
- 5.12 The requested amendments to the definition will also give rise to a range of consequential amendments. This includes removing all references to ‘geology’ values from Schedule 25, including the proposed new ‘screening framework’. Also, it may be necessary to reframe previously identified ‘geology values’ as landscape or natural

⁷ Paragraph 207 of the section 42A Report.

character values associated with the OWB (i.e., including where it is caves, karsts and gorges that are considered outstanding).

Schedule 25 - Part 1 – Overview of Categories of Outstanding Values and their Sub-parts

- 5.13 Part 1 of Schedule 25 of PC7 contains an overview of the proposed categories of outstanding values associated with the region's OWBs. Ravensdown's submission supported this overview, in part, as it was considered that the descriptive information is of assistance to resource users. However, Ravensdown's submission also identified that there were issues with the information contained in this part of the schedule that needed to be resolved and tidied up.
- 5.14 The issues identified by Ravensdown in its submission were:
- (a) Inconsistencies or repetition in the 'descriptions' and 'sub-values' contained in Table 1, and on occasion the repetition is not consistent (e.g., under 'ecology' there is a list of four ecological groupings that differ from the four groupings listed in the sub-values column of the table).
 - (b) Use of different terms that mean the same thing (e.g., angling and fishing).
 - (c) The statement, under Table 1, that information on the outstanding and significant values of OWBs will be available on Council's webpage does not accommodate the fact that key information on these values is, and will be (as a result of future plan changes), contained in Schedule 25. Ravensdown submission therefore requested that this statement be amended to refer to additional (or support) information.
 - (d) As discussed above in paragraphs 5.1 to 5.12, there are a number of consequential amendments arising from Ravensdown's requested amendments to the definition of OWB⁸.
- 5.15 From my review of the section 42A Report, there is no specific assessment of Ravensdown's submission points (except for the deletion of 'geology' as an outstanding value, as discussed previously in my evidence). Irrespective, the recommended amendments to PC7, as contained in Appendix 1 of the section 42A Report, do not contain any amendments to Part 1 of Schedule 25 that reflect the amendments sought by Ravensdown's submission.
- 5.16 In my opinion, the issues outlined in Ravensdown's submission are still contained in Part 1 of Schedule 25. I consider that this part of the schedule still needs to be 'tidied up' in the manner suggested by Ravensdown in its submission.

6. CONCLUSION

- 6.1 As stated in **Section 2** of my evidence, I generally support PC7. However, there are two key outstanding matters arising from Ravensdown's submission, and two other

⁸ Ravensdown's submission also sought an amendment to the definition of 'outstanding', and therefore Ravensdown's submission in relation to Part 1 of Schedule 25 also identified a consequential amendment arising out of this submission point. However, as outlined in **Appendix B** of my evidence, I consider the notified definition of 'outstanding' is appropriate. The 42A Report recommends retaining the notified definition of 'outstanding'.

matters, discussed within my evidence outlines, which in my opinion give rise to the need for amendments to some specific PC7 provisions.

- 6.2 The first issue relates to the policy guidance provided in Policies LW1.2, C1 and C2. As discussed in **Section 3** of my evidence. The issue is the requirement to solely avoid adverse effects (and adverse effects that are more than minor under Policy LW1.2 and Policy C1(1)(ii)(c)) can be problematic as it infers, via case law, prohibited activity status for activities. In my opinion, the policy direction that should be accommodated within these policies is to ensure that the values associated with OWBs are protected, and in the context of Policies C1 and C2 that adverse effects are avoided, remedied or mitigated to give effect to the relevant policies in the NZCPS. This approach enables a more evaluative process to occur when developing the resource management framework that applies to the region's OWBs.
- 6.3 The second issue relates to the identification of specific human related water uses as significant values in the OWBs. At present, the relevant significant value identifies water uses associated with primary production and associated processing and urban activities, not all of the human related water uses associated with these catchments, including Ravensdown's industrial use at the Napier Works are identified. For the reasons outlined in **Section 4** of my evidence, I consider that this significant value needs to be amended to also include industrial and commercial water uses. Consequential amendments to other OWBs also arise from this requested amendment.
- 6.4 The other matters, as discussed in **Section 5** of my evidence, relate to the definition for OWBs and 'Overview of Categories of Outstanding Values and their Sub-parts' as contained in Part 1 of Schedule 1. In my opinion, the OWB definition should be amended by deleting the 'geology' outstanding value, and correcting the terminology so that 'recreational' and 'ecological' outstanding values are referred to, not recreation and ecology. My requested OWB definition give rise to a range of consequential amendments throughout PC7. In relation to Part 1 of Schedule 25, I consider that this part of the schedule still needs to be 'tidied up' to address the issues raised by Ravensdown in its submission.
- 6.5 The specific amendments being sought to the section 42A Report recommendations, as discussed within my evidence, are provided in the table contained in **Appendix B** of my evidence.



Carmen Taylor
13 November 2020

APPENDIX A – CARMEN WENDY TAYLOR – QUALIFICATIONS AND EXPERIENCE

- A1.1 My full name is Carmen Wendy Taylor.
- A1.2 I hold the qualifications of Bachelor of Science (Geography) and Masters of Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
- A1.3 I have over 25 years of professional planning and resource management experience in New Zealand. Since September 2017 I have been employed by Planz Consultants Limited (**Planz**), a planning and resource management consultancy. Prior to joining Planz, I was employed by Golder Associates (NZ) Limited, and before that MWH New Zealand Limited and the Electricity Corporation of New Zealand (**ECNZ**).
- A1.4 Throughout my professional experience, I have been involved in complex projects, initially for ECNZ and then for a range of clients, which have required detailed assessments of the implications and interrelationships associated with utilising a range of resources, such as land, water (surface water and groundwater), air and the coastal marine area. These projects have generally involved technical and scientific input, which I have understood and then utilised when assessing the planning implications (both planning policy implications and resource consent requirements), of projects under the Resource Management Act 1991 (**RMA**).
- A1.5 In relation to policy development work since 2006, I been involved in the following plan development processes: Environment Southland's Variation No. 4 (Water Quality) to the Proposed Fresh Water Plan; Environment Waikato's Proposed Variation No. 6 (Water Allocation); the Proposed One Plan for the Manawatu-Wanganui Region; Central Otago District Council's Proposed Plan Changes 5A to 5W; Proposed Hauraki District Plan; Bay of Plenty's Proposed Regional Policy Statement; Environment Waikato's Proposed Regional Policy Statement; Taupo District Council's Proposed Plan Change 29; the Proposed Auckland Unitary Plan; the Canterbury Air Regional Plan; the Proposed Marlborough Environment Plan; Clutha District Council's Proposed Plan Change 40 (Stirling re-zoning); Selwyn District Council's District Plan Review; and, Timaru District Council's District Plan Review. The nature of my involvement varies, but includes preparation of plan provisions and section 32 Reports for Councils, as well as the preparation of submissions, further submissions, review and advice on the recommendations of the section 42A Reports, preparation and presentation of planning evidence, review of decisions and participation in appeal processes.
- A1.6 More recently I have been assisting Ravensdown with policy development processes throughout New Zealand, including but not limited to: Plan Change 1 (Waikato and Waipa River Catchments (Healthy Rivers), and Variation 1 to this plan change, to the Waikato Regional Plan; Proposed Plan Change 13 (Air Quality) to the Regional Natural Resources Plan for the Bay of Plenty Region; Proposed Natural Resources Plan for the Wellington Region; Proposed Regional Plan for Northland; Proposed Southland Water and Land Plan; Proposed Marlborough Environment Plan; Proposed Plan Change 1 (Dryland Farming) to the Hurunui and Waiau River Regional Plan; Proposed Plan

Change 2 (Existing Intensive Farming Land Uses) to the Horizons' One Plan; Proposed Plan Change 7 to the Canterbury Land and Water Regional Plan, and Proposed Plan Change 2 to the Waimakariri River Regional Plan; Proposed Plan Change 6AA to the Regional Plan: Water for Otago; the draft National Policy Statement for Highly Productive Land; and, Proposed Plan Change 8 (Discharge Management) to the Regional Plan: Water for Otago.

A1.7 Examples of complex projects where I have prepared applications under the RMA and/or other legislation include:

- (a) Consent for the continued operation of the Manapouri Hydro-electric Power Scheme and the approvals required for the construction of the second tailrace at Manapouri.
- (b) Resource consents and designations for Municipal wastewater treatment and disposal facilities at Dunedin, Queenstown and Wanaka.
- (c) Resource consents and designations for Queenstown's sanitary landfill and waste management facilities (landfills and transfer stations) in Invercargill City and Southland District.
- (d) Resource consents for the construction and operation of Trustpower's Mahinerangi Wind Farm in Otago.
- (e) Discharge permits for discharges to air, land and water, as well as various regional and district land use consents, for a number of dairy manufacturing facilities.
- (f) Discharges permits for discharges to air and coastal waters from a fertiliser manufacturing site.
- (g) Marine consent to mine phosphorite on the Chatham Rise for Chatham Rock Phosphate Limited.
- (h) Discharge permits, water permits and land use consents for alluvial gold mining in Central Otago.

APPENDIX B – SUMMARY OF REQUESTED AMENDMENTS

Further amendments, beyond those recommended in the section 42A Report’s appendices, are identified in the following tables using double underlining for additions, ~~double strikethrough~~ for deletions and **grey shading**. The section 42A Report recommendations are not tracked in the following table, rather they have been ‘accepted’.

PC7 Provision	Comment / Requested Amendments
Chapter 3.1A – Integrated Land Use and Freshwater Management	
<p>Amended Objective LW1.1 (and associated amendments to ‘Principal reasons and explanation’) (Ravensdown Sub. Ref. 1) (Sub. No. 33.1)</p>	<p>Retain the section 42A Report’s recommended retention of the notified amendments to the objective. The acceptance of Ravensdown’s submission to retain the amendments to Objective LW1.1, and the associated amendments to the ‘Principal reasons and explanation’, as notified, is recommended in the section 42A Report. (Refer to: Report 4.1 - paras 266 to 278 of the section 42A Report; and, in Appendix 2, refer to p. 82 of the collated appendices).</p>
<p>Amended Policy LW1.1 (Ravensdown Sub. Ref. 2) (Sub. No’s. 33.2 and 33.7)</p>	<p>Retain the section 42A Report’s recommended amendments to the notified Policy LW1.1, including the relocation of Part (cC) of the policy into Policy LW1.2. The acceptance of Ravensdown’s submission points, which was largely to retain the policy (with minor corrections), is recommended in section 42A Report. (Refer to: Report 4.2 - paras 279 to 327 of the section 42A Report; and, in Appendix 2, refer to p. 74 and p.84 of the collated appendices).</p>
<p>Amended Policy LW1.2 (Ravensdown Sub. Ref. 3) (Sub. No. 33.3 and 33.4)</p>	<p>Except for Part (bA)(iii), retain the section 42A Report’s recommended amendments to the notified Policy LW1.2. Amend the section 42A Report’s recommended retention of the notified Part (bA)(iii) of the policy as follows: <div style="margin-left: 40px;"> <i>iii) <u>include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on <u>protects</u> the outstanding and significant values of an outstanding water body identifies in Schedule 25.</u></i> </div> (Refer to: Report 4.2 - paras 279 to 327 of the section 42A Report; and, in Appendix 2, refer to p.87 of the collated appendices).</p>

PC7 Provision	Comment / Requested Amendments
<p>Amended Policy LW1 – New footnotes (Ravensdown Sub. Ref. 4) (Sub. No. 33.5 and 33.6)</p>	<p>Retain the section 42A Report’s recommended retention of the two new footnotes attached to Policy LW1.</p> <p>The acceptance of Ravensdown’s submission to retain the two footnotes, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 4.2 - paras 279 to 327 of the section 42A Report; and, in Appendix 2, refer to p.74 of the collated appendices).</p>
<p>Amended Policy LW1.1 – Principal reasons and explanation (Ravensdown Sub. Ref. 5) (Sub. No. 33.8)</p>	<p>Retain the section 42A Report’s recommended minor amendment to the notified ‘Principal reasons and explanation’ for Policy LW1.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain the ‘Principal reasons and explanation’, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 4.2 - paras 279 to 327 of the section 42A Report; and, in Appendix 2, refer to p.84 of the collated appendices).</p>
<p>Amended Policy LW2 (Ravensdown Sub. Ref. 6) (Sub. No. 33.9)</p>	<p>Retain the section 42A Report’s recommended amendments to the notified Policy LW1.1, including the insertion of Part (bA) of the policy into Policy LW2.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain this policy, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 4.3 - paras 328 to 339 of the section 42A Report; and, in Appendix 2, refer to p.89 of the collated appendices).</p>
<p>Table 2A – Greater Heretaunga / Ahuriri Catchment Area (Ravensdown Sub. Ref. 7) (Sub. No. 33.10)</p>	<p>The rejection of Ravensdown’s submission is recommended on the basis that the submission is out of scope. Ravensdown accepts, as stated in the submission, that this submission point is out of scope.</p> <p>(Refer to: Report 10 - paras 1682 to 1704, specifically para 1686(c), of the section 42A Report; and, in Appendix 2, refer to p.143 of the collated appendices).</p>
<p>New Policy LW3A (Ravensdown Sub. Ref. 8) (Sub. No’s. 33.11 to 33.14)</p>	<p>Retain the section 42A Report’s recommended amendments to the notified Policy LW3A.</p> <p>The section 42A Report recommends that acceptance, in part, of Ravensdown’s submission point to retain the policy (Sub. No. 33.11), while the submission points requesting the amendment of Parts (2)(c) and (d) to refer to ‘existing’ discharges (Sub. No’s. 33.12 to 33.14) are rejected.</p>

PC7 Provision	Comment / Requested Amendments
	(Refer to: Report 4.4 – paras 340 to 360 of the section 42A Report; and, in Appendix 2, refer to pp.91 to 93 of the collated appendices).
<p>New Policy LW3A - Principal reasons and explanation (Ravensdown Sub. Ref. 9) (Sub. No. 33.15)</p>	<p>Retain the section 42A Report’s recommended amendments to the Policy LW3A ‘Principal reasons and explanation’.</p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission point seeking to amend the explanation to clarify that the decision-making criteria applies to new or modified activities.</p> <p>(Refer to: Report 4.4 – paras 340 to 360 of the section 42A Report; and, in Appendix 2, refer to p.92 of the collated appendices).</p>
Chapter 3.2 – The Sustainable Management of Coastal Resources	
<p>New Objective 11 (Ravensdown Sub. Ref. 10) (Sub. No’s. 33.16 and 33.17)</p>	<p>Retain the section 42A Report’s recommended retention of the notified objective.</p> <p>The acceptance of Ravensdown’s submission to retain Objective 11, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.1 – paras 361 to 370 of the section 42A Report; and, in Appendix 2, refer to pp.49 and 95 of the collated appendices).</p>
<p>New Explanation and Reasons – 3.2.8A (Ravensdown Sub. Ref. 11) (Sub. No. 33.18)</p>	<p>Retain the section 42A Report’s recommended amendments to this explanation and reason.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain this explanation and reason, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.1 – paras 361 to 370 of the section 42A Report; and, in Appendix 2, refer to p.95 of the collated appendices).</p>
<p>New Explanation and Reasons – 3.2.8B (Ravensdown Sub. Ref. 12) (Sub. No. 33.19)</p>	<p>Retain the section 42A Report’s recommended amendments to this explanation and reason.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain this explanation and reason, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.1 – paras 361 to 370 of the section 42A Report; and, in Appendix 2, refer to p.95 of the collated appendices).</p>
<p>New Policy C1 (Ravensdown Sub. Ref. 13) (Sub. No’s. 33.20 to 33.22)</p>	<p>Amend the section 42A Report’s recommended amendments to this policy as follows:</p> <p style="text-align: center;">...</p>

PC7 Provision	Comment / Requested Amendments
	<p>ii) <i>Include provisions to manage activities in a manner which:</i></p> <p>d. <i>avoids, remedies or mitigates adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25 to give effect to Policy 11(a) of the New Zealand Coastal Policy Statement 2010;</i></p> <p>e. <i>avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13(1)(a) and 15(a) of the New Zealand Coastal Policy Statement 2010;</i></p> <p>f. <i>avoids adverse effects that are more than minor on <u>protects</u> any other outstanding and significant values identified in Schedule 25.</i></p> <p>The section 42A Report recommends that Ravensdown’s submission point to retain the intention of the policy is accepted (Sub. No. 33.22). The section 42A Report recommends the rejection of the submission point seeking to amend the provisions that referred to avoiding adverse effects (Sub. No’s. 33.20 and 33.21).</p> <p>(Refer to: Report 5.2 – paras 371 to 390 of the section 42A Report; and, in Appendix 2, refer to pp.76, 96 and 97 of the collated appendices).</p>
<p>New Policy C1 – new footnote (Ravensdown Sub. Ref. 14) (Sub. No. 33.23)</p>	<p>Retain the section 42A Report’s recommended retention of the new footnote attached to Policy C1.</p> <p>The acceptance of Ravensdown’s submission to retain the footnote, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.2 – paras 371 to 390 of the section 42A Report; and, in Appendix 2, refer to p.76 of the collated appendices).</p>
<p>New Policy C2 (Ravensdown Sub. Ref. 15) (Sub. No’s. 33.24 to 33.27)</p>	<p>Amend the section 42A Report’s recommended amendments to this policy as follows:</p> <p>...</p> <p>e. <i>When p <u>Protecting outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body identified in Schedule 25, by avoiding, remedying or mitigating</u> adverse effects must be avoided pursuant to Policy 11(a) of the New Zealand Coastal Policy Statement 2010.</i></p>

PC7 Provision	Comment / Requested Amendments
	<p>f. When proposed <i>Protecting outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25, <u>by avoiding</u> adverse effects must be avoided pursuant to Policies 13(1)(a) and 15(a) of the New Zealand Coastal Policy Statement 2010.</i></p> <p>The section 42A Report recommends that Ravensdown’s submission point to retain the intention of the policy is accepted, in part (Sub. No. 33.24). The section 42A Report recommends the rejection of the submission point seeking to provided for existing water uses (Sub. No’s. 33.25 to 33.27).</p> <p>(Refer to: Report 5.3 – paras 391 to 403 of the section 42A Report; and, in Appendix 2, refer to pp.76 and 99 of the collated appendices).</p>
<p>Amended Principal reasons and explanation – 3.2.15 (Ravensdown Sub. Ref. 16) (Sub. No’s. 33.28 and 33.29)</p>	<p>Retain the section 42A Report’s recommended amendment to this explanation and reason.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain this explanation and reason, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.3 – paras 391 to 403 of the section 42A Report; and, in Appendix 2, refer to pp.97 and 98 of the collated appendices).</p>
<p>Amended Principal reasons and explanation – 3.2.18A (Ravensdown Sub. Ref. 17) (Sub. No. 33.30)</p>	<p>Retain the section 42A Report’s recommended retention of this explanation and reason as notified.</p> <p>The acceptance, in part, of Ravensdown’s submission to retain this explanation and reason, as notified, is recommended in the section 42A Report.</p> <p>(Refer to: Report 5.3 – paras 391 to 403 of the section 42A Report; and, in Appendix 2, refer to p.97 of the collated appendices).</p>
<p>Amended Principal reasons and explanation – 3.2.18B (Ravensdown Sub. Ref. 18) (Sub. No. 33.31)</p>	<p>Retain the section 42A Report’s recommended amendment to this explanation and reason.</p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission point seeking to amend the explanation to clarify that the decision-making criteria applies to new or modified activities.</p> <p>(Refer to: Report 5.3 – paras 391 to 403 of the section 42A Report; and, in Appendix 2, refer to pp.98 and 99 of the collated appendices).</p>
<p>Chapter 9 - Glossary</p>	
<p>New definition – Outstanding water body (Ravensdown Sub. Ref. 19) (Sub. No. 33.32)</p>	<p>Amend the section 42A Report’s recommended retention of the notified definition as follows:</p>

PC7 Provision	Comment / Requested Amendments
	<p>Outstanding water body means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreational, landscape, geology, natural character or ecological values(s).</p> <p>And, consequential amendments throughout PC7 including Schedule 25.</p> <p>The section 42A Report recommended the rejection of Ravensdown’s submission point and recommends the retention of the definition as notified.</p> <p>(Refer to: Report 2.1 – paras 153 to 178 and Report 2.2 – paras 179 to 212 of the section 42A Report; and, in Appendix 2, refer to pp.56 and 57 of the collated appendices).</p>
<p>New definition – Outstanding (Ravensdown Sub. Ref. 20) (Sub. No. 33.45)</p>	<p>Retain the section 42A Report’s recommended retention of this definition as notified.</p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission point seeking to remove ‘conspicuous’ from the definition on the basis that this terminology, from case law, applied to outstanding landscapes.</p> <p>(Refer to: Report 2.1 – paras 153 to 178 of the section 42A Report; and, in Appendix 2, refer to p.55 of the collated appendices).</p>
Schedule 25 – Outstanding Water Bodies	
<p>New Part 1 – Overview of categories of outstanding values and their sub-parts (Ravensdown Sub. Ref. 21) (Sub. No’s. 33.33 to 33.44 and 33.46)</p>	<p>Amend the section 42A Report’s recommended amendments to Part 1 of Schedule 25, in general accordance with Ravensdown’s submission points, as follows:</p> <ul style="list-style-type: none"> - Amend Table 1 to remove the repetition between the description and sub-values, the use of different terminology for values (i.e., use consistent terminology) and the use of different terms for the same things (i.e., angling and fishing); - Amend Table 1 in response to the consequential amendment arising from the requested amendment to the definition of ‘outstanding water bodies’. - Amend the last sentence under Table as follows: <i><u>Additional information held by HBRC ...</u></i> <p>The section 42A Report does not contain a recommendation in relation to Sub. Ref. 33.46 which specifically relates to this part of Schedule 25 (Refer to Appendix 2, p.59 of the collated appendices). Irrespective, the submission points seem to have been rejected.</p>

PC7 Provision	Comment / Requested Amendments
	<p>(Refer to: Report 2.2 – paras 179 to 212 and Report 7 – paras 427 to 458 of the section 42A Report; and, in Appendix 2, refer to pp.57 (Sub. No. 33.44) and 59 (Sub. No. 33.46) of the collated appendices. It is noted that in Appendix 2, under Report 7, Sub. No’s 33.33 to 33.44 are considered in the context of different tables in Schedule 25).</p>
<p>New (section 42A Report recommendation) Part 2 – Outstanding Water Body Screening Framework</p>	<p>No specified comments or requested amendments.</p> <p>However, if this part of Schedule 25 is retained, consequential amendments may be required to ensure that the screening framework is consistent with the definition for ‘outstanding water bodies’ and that consistent terminology is being used.</p> <p>It is also noted that Table 1A differs (i.e., the addition of ‘geology’ and ‘natural character’ as values) from that proposed in the ‘Water Conservation Order Review – Outstanding Values: Key Features – For: Community Environment Fund – Outstanding Freshwater Body Project’, prepared by Belinda Harper (Senior Planner, Hawke’s Bay Regional Council) and dated September 2020.</p>
<p>New Part 2 (Now Part 3) – Outstanding Water Bodies in Hawke’s Bay and their outstanding and significant value(s) – Introduction (Ravensdown Sub. Ref. 22) (Sub. No. 33.47)</p>	<p>Retain the section 42A Report’s recommended amendments to this introduction.</p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission to retain the Introduction as notified.</p> <p>(Refer to: Report 7 – paras 427 to 458 and Report 10 – paras 1682 to 1704 of the section 42A Report; and, in Appendix 2, refer to p.143 of the collated appendices).</p>
<p>New Table 2 – Outstanding Water Bodies – ID#18 – Ngaruroro River and Estuary (Ravensdown Sub. Ref. 23) (Sub. No’s. 33.48 to 33.50)</p>	<p>Amend the section 42A Report’s recommended retention of the following notified ‘significant value’ as follows:</p> <p style="padding-left: 40px;"><i>Primary production, industrial and commercial water use (including for associated processing and other urban activities).</i></p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission to amend the above significant value to provide for industrial and commercial water use in these water bodies as significant values.</p> <p>(Refer to: Report 2.2 – paras 184 to 188, Report 2.3 – paras 213 to 221 and Report 7.18– paras 1015 to 1116 of the section 42A Report; and, in Appendix 2, refer to pp.65 and 121 of the collated appendices).</p>

PC7 Provision	Comment / Requested Amendments
<p>New Table 2 – Outstanding Water Bodies – ID#32 – Tūtaekurī River (Ravensdown Sub. Ref. 24) (Sub. No’s. 33.51 to 33.53)</p>	<p>Amend the section 42A Report’s recommended retention of the following notified ‘significant value’ as follows:</p> <p><i>Primary production, <u>industrial and commercial</u> water use (including for associated processing and other urban activities).</i></p> <p>The section 42A Report recommends the rejection of Ravensdown’s submission to amend the above significant value to provide for industrial and commercial water use in these water bodies as significant values.</p> <p>(Refer to: Report 2.2 – paras 184 to 188, Report 2.3 – paras 213 to 221 and Report 7.32– paras 1503 to 1531 of the section 42A Report; and, in Appendix 2, refer to pp.60, 68 and 69 of the collated appendices).</p>

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Plan Change 7 – Outstanding
Water Bodies to the Hawke’s Bay Regional
Resource Management Plan

AND

IN THE MATTER of the submissions by Ravensdown Limited
(Submitter No. 33)

STATEMENT OF EVIDENCE OF ANNA MARY WILKES

ON BEHALF OF RAVENSDOWN LIMITED

13 NOVEMBER 2020

SUMMARY

- A. Ravensdown Limited (**Ravensdown**) is a farmer-owned co-operative with over 1,250 shareholders based in Hawkes Bay. Ravensdown is a science-focused organisation delivering quality agri-products, technologies and services, and is an integral part of the food creation process, whether the food is grown for livestock or for humans.
- B. Ravensdown operates a superphosphate manufacturing site at Awatoto (the **Napier Works**), the largest superphosphate manufacturing plant in New Zealand. The Napier Works is a key contributor to both the local and national economy. It also plays an essential part in providing the key nutrients required for the ongoing development of New Zealand agriculture.
- C. Ravensdown is generally supportive of the need to recognise the region's Outstanding Water Bodies and their associated values. However, it is important that existing industries that employ people, use local services and in the case of the Napier Works, contribute to farmers' ability to operate, retain an opportunity to innovate and to operate industrial activities that are productive, sustainable and profitable.
- D. While some of Ravensdown's submissions have been addressed through the section 42A Report's recommendations for amendments to Proposed Plan Change 7 – Outstanding Water Bodies (**PC7**), a number of matters require further consideration and amendment.
- E. Ravensdown is concerned that existing industrial water uses have not been appropriately recognised in PC7 and would like to see amendments to address this matter.

1. INTRODUCTION

- 1.1 My full name is Anna Mary Wilkes
- 1.2 I am employed by Ravensdown Limited (**Ravensdown**) as the Environmental & Policy Manager. I have worked in this role since February 2020 and for three years prior I was the Environmental Policy Specialist.
- 1.3 Prior to joining Ravensdown, I was employed by Golder Associates Limited (and its predecessor Kingett Mitchell Limited) in various environmental consulting roles between 2005 and 2017.
- 1.4 I have a Bachelor of Science in Microbiology (1997) and a Master of Science with Honours in Biochemistry (2000) from the University of Canterbury. I also have a Master of Resource and Environmental Planning with Honours (2018) from Massey University.
- 1.5 I am an Associate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
- 1.6 I am presenting evidence as a representative of Ravensdown, and not as an expert witness.

2. SCOPE OF EVIDENCE

- 2.1 The scope of my evidence is to provide contextual background to Ravensdown's interest in Proposed Plan Change 7 – Outstanding Water Bodies (**PC7**) prior to Ms Taylor addressing specific planning matters in her evidence.
- 2.2 In **Section 3** of my evidence, I provide an overview on Ravensdown's general interest in regulatory processes and the significance of the Napier Works superphosphate manufacturing site. In **Section 4** of my evidence, I raise a specific matter arising from PC7, namely, concerns with the lack of recognition of existing industrial water uses.

3. RAVENSDOWN LIMITED

Ravensdown's Interest in Regulatory Processes

- 3.1 Ravensdown takes an interest in a wide range of resource management matters that relate to rural and industrial activities and participates in planning processes at the national and regional level through preparing submissions on regulatory, policy and plan mechanisms prepared under the Resource Management Act 1991 (**RMA**).
- 3.2 In participating in policy and regulatory development processes, Ravensdown recognises the need for the environmental impacts of farming to be mitigated and is supportive of an effects-based approach. However, given the importance to New Zealand of its farming sector, it is important that farmers' ability to operate is protected and they retain the opportunity to innovate and to run farm businesses that are productive, sustainable and profitable.
- 3.3 In addition, Ravensdown has its own manufacturing, quarrying and bulk fertiliser store activities to service its customers. Ravensdown supports the need to mitigate the

effects of its operations on the environment and is committed to fulfilling its environmental obligations in order for its business activities to continue.

- 3.4 In particular, Ravensdown participates in planning processes to ensure policies and regulations incorporated into plans or other planning mechanisms, seek and find an optimal balance between any necessary amendments to farming activities, as well as its industrial operations, and the use of the products it has developed to assist with sustainability, growth and production in the rural sector, and ultimately the economic and social wellbeing of the rural community and New Zealand.

Ravensdown's Shareholders in Hawke's Bay

- 3.5 Ravensdown has over 1,250 shareholders in the Hawke's Bay region. Almost 80% of these are sheep and/or beef farmers, with the remainder comprising dairy and dairy runoff, mixed or other livestock, horticulture, cropping systems and lifestyle blocks.

Ravensdown's Business

- 3.6 Ravensdown exists to enable smarter farming for a better New Zealand. As a farmer-owned co-operative, Ravensdown's products, expertise and technology help farmers reduce environmental impacts and optimise value from the land.
- 3.7 Ravensdown is an integral part of the food creation process, whether the food is grown for livestock or for humans. Ravensdown tests for, advises about, manufactures, buys, ships, stores, spreads, measures and maps food-creating nutrients and fertiliser for its farmers in an integrated way.
- 3.8 Ravensdown is a science-focused organisation delivering quality agri-products, technologies and services. Ravensdown provides:
- (a) Practical insights, trusted guidance and lab-based diagnostic data on soil and plant samples.
 - (b) Environmental consultancy to assist farmers to mitigate impacts and move beyond compliance.
 - (c) Quality agri-products including agrichemicals, seeds and animal health products.
 - (d) Manufacturing superphosphate at dedicated plants in Christchurch, Dunedin and Napier.
 - (e) Lime quarries producing agricultural lime products.
 - (f) Logistics and storage of bulk fertiliser and other products to ensure they are available when needed.
 - (g) Global sourcing from top tier suppliers.
 - (h) Capability for precision fertiliser application by ground and by air.
 - (i) Map-and-measure technology for better on-farm decision making.
 - (j) Innovation and research to ensure advice and solutions are based on sound science.
- 3.9 In addition to its three superphosphate manufacturing plants, Ravensdown operates a network of fertiliser bulk stores and quarries throughout New Zealand. In the

Hawke's Bay region there is the manufacturing plant at Awatoto (the **Napier Works**) and bulk stores in Napier, Wairoa and Waipukurau.

- 3.10 Ravensdown provides the nutrients that nourish New Zealand's soil which, in turn, feed the plants and animals that deliver the products that can command a premium on the world stage. Smarter farming is all about smarter choices for the environment. Sales are important but as a farmer-owned co-operative, it is not Ravensdown's policy to sell farmers more than they need. Precision agriculture is about the right amount of the right inputs in the right place, applied at the right time. Smarter farming is also about always having the right reason - the focus on the environment, community and kaitiaki (stewardship).

Napier Works

- 3.11 The Ravensdown Napier Works, located at 90 Waitangi Road, Napier, undertakes the manufacture, storage, and sale of fertilisers. The site is situated in Awatoto between farmland and local industrial businesses.
- 3.12 The Napier Works employs 57 full time staff, with a further 30 Ravensdown staff in the Customer Centre and other services located in office buildings at the site. Dependant on customer demand, upward of 250,000 tonnes of superphosphate is manufactured on site each year. This supplies Ravensdown customers across the North Island with periodic transfers to the South Island.
- 3.13 In addition to the staff employed directly at the Napier Works, approximately 170 contractors work on-site annually to assist with maintenance and development projects.
- 3.14 The Napier Works supports essential infrastructure in the region. It is also the largest importer of product through the Port of Napier. Direct economic activity, and indirect employment and economic activity associated with the Napier Works is significant. The Napier Works is a major user of local road transport carriers in the distribution of products to stores around the North Island.
- 3.15 The Napier Works operates under a number of resource consents issued by Hawke's Bay Regional Council. The regional resource consents are:
- | | | | |
|-----|---------------------------------------|--------|-----------------|
| (a) | Discharge to Air Consent DP050561Ab | Expiry | 21 October 2022 |
| (b) | Discharge to Water Consent DP040143Wa | Expiry | 31 May 2022 |
| (c) | Water Take Consent WP060639Tb | Expiry | 31 May 2027 |
- 3.16 Given the upcoming expiry of the Napier Works' regional resource consents, a resource consent renewal project is currently underway. Project work, in the form of technical assessments, have commenced in preparation for applying for replacement resource consents for both the discharge to air and discharge to water. Stakeholder consultation will form a key component of the next phase of work.
- 3.17 Based on the above overview, the Napier Works is a key contributor to both the local and national economy. It also plays an essential part in providing the key nutrients required for the ongoing development of New Zealand agriculture.

4. MATTERS ARISING FROM PROPOSED PLAN CHANGE 7

- 4.1 The Napier Works holds a water permit (WP060639Tb) to take water from two bores for the purpose of manufacturing sulphuric acid for the superphosphate manufacturing process. Water use efficiencies are achieved through the recycling of water through the manufacturing process where possible. I understand, based on Ms Taylor's evidence, that this take is from the proposed Heretaunga Aquifer Outstanding Water Body (ID#2 in Schedule 25 of PC7). The Napier Works water take is also located within the catchments of two identified surface water Outstanding Water Bodies, the Ngaruroro River and Estuary (ID#18 in Schedule 25 of PC7) and the Tūtaekurī River (ID#32 in Schedule 25 of PC7).
- 4.2 The Napier Works also holds a discharge permit to discharge stormwater and other process water (DP040143Wa) at the southern end of the Tūtaekurī River that then flows into the Ngaruroro River Estuary. As I have stated above, these two surface water bodies are identified as proposed Outstanding Water Bodies in PC7. As part of the reconsenting project Ravensdown is exploring various options for improvements to the treatment and disposal of its stormwater and other process water.
- 4.3 The Napier Works is reliant on being able to access a suitable water supply, and to be able to sustainably discharge stormwater and other site process water. If the use of this water, as part of an significant industrial operation (i.e., the Napier Works), is not recognised as being part of the values associated with the above Outstanding Water Bodies, then Ravensdown is concerned that it may be difficult to gain new resource consents for our site's water take and stormwater (and other process water) discharges in the future. This would, in turn, have implications for the ongoing operation of Ravensdown's Napier Works.
- 4.4 Given this concern, Ms Taylor details in her evidence, the recognition being sought by Ravensdown of existing industrial water uses in PC7. Ms Taylor will also traverse several other planning matters pertinent to PC7 that Ravensdown considers to be material.

5. CONCLUSION

- 5.1 In conclusion, Ravensdown is generally supportive of the need to recognise the region's Outstanding Water Bodies and their associated values. Ravensdown is concerned that existing industrial water uses have not been appropriately recognised in PC7 and would like to see amendments to address this matter.
- 5.2 While some of Ravensdown's submissions have been addressed through the section 42A Report's recommendations, Ms Taylor has addressed other matters which in our opinion warrant further consideration.



Anna Wilkes

13 November 2020

IN THE MATTER of the Resource Management Act 1991 (“Act”)

AND

IN THE MATTER of a hearing under Clause 8B of Schedule 1 of the Act to Proposed Plan Change 7 of the Regional Resource Management Plan

BETWEEN **TIMBERLANDS LIMITED**

Submitter

AND **HAWKES BAY REGIONAL COUNCIL**

1. INTRODUCTION

1.1 My name is (Christine) Bridget Robson.

Qualifications and Experience

1.2 I have a Bachelor of Agricultural Science and a Master of Philosophy in Resource and Environmental Planning. I work as an independent planning and resource management advisor as the principal of a consultancy, Eland, based in Whakatane. My clients include central and local government, industry, land owners and iwi.

1.3 My 36 years of resource management experience spans regional and central government and industry. My experience ranges from “ground zero” decisions on acquiring raw science for policy development, policy design and policy implementation. My work most relevant to this case includes RMA policy development for first and second generation regional policy statements, and the policy development and review of several regional plans, including review of the Bay of Plenty first generation Coastal Plan.

1.4 As well as roles in regional councils I have held environmental advocacy and implementation roles in the forestry and energy sectors. This included managing environmental operations for the 330,000ha Carter Holt Harvey Forests’ estate, which required analysis and responses to planning documents for 39 regional and district councils. I have also obtained resource consents and run environmental compliance programmes for both CHH and what is now known as Mercury Energy Limited. At a national level I was principal policy advisor to MPI for the development of the National Environmental Standards for Plantation Forestry.¹

¹ Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.

1.5 I am retained by Timberlands Limited (Timberlands) to provide policy and operational advice on RMA matters, so have detailed knowledge of key forestry operations for their estate. I also advise other forestry companies. This planning evidence is on behalf of Timberlands Limited, Earnslaw One Limited, Hawkes Bay Forestry Group Inc, Forest Management New Zealand, New Zealand Forest Managers, Rayonier Matariki Forests and PanPac Forest Products Limited. These parties own or manage forests in the catchments of these rivers and/or their headwater tributaries: Mohaka, Ngaruroro, Porangahau, Tutaekuri and Waipunga.

Purpose of evidence

1.6 The purpose of my evidence is to identify, for the consideration of the commissioners, uncertainties in the Plan Change that stem from the design regarding:

1.6.1 the construction of the objectives and policies of PPC7, insofar as they condense the roles of the NZCPS and the NPSFM;

1.6.2 the proposal to delay identifying the spatial extent of outstanding water bodies (OWB) to a subsequent planning step, yet to be developed.

1.6.3 The differing regulatory effects of Policy LW2 and LW3A on land use activities

Code of conduct

1.7 I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note and, although this is a Council hearing, I have complied with it in preparing this evidence. I confirm that the issues addressed in this brief of evidence are within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

2. Proposed Plan Change 7 - context and design

2.1 The NPSFM 2017 and 2020 does not set out a mandatory or approved methodology for the assessment and identification of the values of Outstanding Water Bodies (OWBs). It does require regional councils to define their values so that they can be protected².

2.2 Of note is that an OWB does not have to be the entirety of a water body³:

*“a water body, **or part of a water body**, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values”*

2.3 The rationale of Proposed Plan Change 7 (PPC7) is that the changes it proposes to the Regional Resource Management Plan (RRMP) in Chapters 3.1A and 3.2 will better reflect these NPSFM provisions.

2.4 The Proposed version of PC7 did not clearly distinguish between the freshwater and the coastal environments. The lack of distinction between coastal and freshwater was the subject of many submissions which identified that it was unclear which instrument was being relied upon for which parts of the plan change, creating some concern as to whether the two national instruments had been considered appropriately. Officers' recommended revisions⁴ to objectives and policies in Chapter 3.1A Integrated Land Use and Freshwater Management and in Chapter 3.2 Sustainable Management of Coastal Resources have increased the distinction to some extent, although PPC7 still refers to “water” rather than “freshwater” in the provisions of Chapter 3.1A.

2.5 The consequence of PPC7 and amendments in the s42A are to amend RRMP Chapter 3.1A Objective LW1, Policies LW1, LW2, the Anticipated Environmental Results and explanations, and adds LW3A and Schedule 25A. PPC7 also adds to Chapter 3.2 Objective 11 and explanations, and policies C1 and C2. These changes are described as providing (among other things) guidance and direction to:

- future catchment based planning processes, and respective local community discussions, ensuring future rules for outstanding water bodies are developed in a manner which protects their significant values, and
- HBRC when making decisions on future activities near outstanding water bodies.

² Objective A2 a) of the NPSFM 2017 directs that the significant values of OWBs are to be protected, as does Policy 8 of the NPSFM 2020.

³ 2020 NPSFM's definition of 'outstanding water body'

⁴ set out in Appendix 1 to the PPC7 s42A report

2.6 The intent is that the role of setting the OWB identification screening and assessment framework (in PPC7) is confirmed before any catchment-based plan changes occur. This is to ensure that OWB values, identified using PPC7 in a consistent and transparent manner, are then protected by other plans required by the NPSFM 2020. Council staff considered that this sequence will support a consistent approach to OWB protection, particularly when:

(iv) there is information available at the time of making decisions on PPC7 and that evidence suggests the relevant criteria has not been met for particular values being outstanding on a regional basis;

(v) in the future, an assessment of an additional water body or outstanding value(s) is done as part of a subsequent regional planning process using new information that may become available in future.

2.7 The s42A report advises⁵ that the policy framework in PPC7 is guided by overall principles and direction on how to manage OWB using a framework that is deliberately flexible. The purpose here is to enable the future catchment based management plans to tailor a set of provisions for each OWB individually. It notes that the framework does not:

(a) stipulate how the outstanding values for each water body should be managed, or

(b) include a list of outcomes and indicators for each OWB that can be used to determine if the outstanding values are being protected, or

(c) recognise the unique characteristics of Māori land or expressly take into account the continued sustainable development of Māori owned land.

2.8 While Council staff see this flexible approach as advantageous, it creates a high degree of uncertainty for at least the next 5 years, for those seeking consent for activities that may trigger OWB considerations via Policy LW2. In my opinion this level of uncertainty is not appropriate, particularly as the three catchment areas listed in Table 2A are all some distance down the path of conservation orders, or similar processes that identify the outstanding nature of various reaches of these catchment systems.

2.9 I consider that it would be more appropriate to include in Schedule 25 the information known about the location of the OWB values to be protected, to improve the level of certainty of the provisions, particularly in these three catchments.

⁵ In paragraph 231

2.10 Minute 1 of the Independent Hearing Panel has requested that expert evidence illustrate that any proposed revisions to PC7 provisions are within the scope of the plan change, and that any proposed revisions need to be assessed in terms of RMA s32AA.

2.11 It is my opinion that it would be consistent with the requirements of s32 and s32AA to revise PPC7, particularly Schedule 25, in a way that would: increase the spatial specificity of the parts of waterbodies that meet the characteristics of OWBs; provide more detail on the values that make those places outstanding, and; constrain the requirements for assessments for resource consents to those specific values and areas. I reach this view insofar as this would be a more efficient, effective and appropriate way to achieve the objectives of PPC7 than the current whole-catchment broad brush approach that is proposed.

3. Time that OWB policy comes into effect

3.1 The PPC7 revisions to Policy LW2 and the addition of policy LW3A introduces a timing differential as to when the OWB policies must be given effect to. For the catchment areas named in Policy LW2 1.a (Heretaunga/Ahuriri, Mohaka and Tukituki) the effect is immediate. Changes to Policy LW2 in PP7 do introduce an end date (LW2 1. bA). But additions to LW2 1.c. appear to significantly broaden the number and range of activities that must consider the effect on OWB when they seek consent, and the physical area this applies to, compared to what is set out in Table 2A.

3.2 Policy LW3A, which affects all catchments, comes into effect once a catchment based plan change is in effect, or after 31 December 2025. It sets out a range of discretionary and non-complying consent activities that will trigger an assessment of their effect on an OWB. I.e. the effect of PPC7 is that the part of the Hawkes Bay that are within the catchment areas of Table 2A will be required to consider OWB immediately and – it seems - indiscriminately, then all catchments will do so, more explicitly, in 2026.

4. Scope of effects considered

4.1 It appears that discretionary activity consent applications prior to 2026 will not be required to explicitly consider OWB matters unless they are in catchment areas of the Heretaunga/Ahuriri, Mohaka or Tukituki.

4.2 Looking at the effect of this provision on existing regulatory instruments relevant to foresters, at present there are few activities that the NES-PF would trigger a requirement for an OWB assessment, because there are few discretionary or non-complying activities. That also seems to be the case for the RRMP. I have not assessed district plans as to

whether changes to land cover would trigger a discretionary or non-complying status, for example a change of land use in an amenity or outstanding landscape.

- 4.3 PPC7 sets a framework that will be given effect to in plans that have yet to be developed. At this point it is not possible to tell whether the future catchment plans will introduce discretionary or non-complying activities that could affect forest activity in the proximity of OWBs. Of concern in this regard is the requirement in to take into account a change to a discharge status:

LW3A 1. 1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account:

*LW3A 2.c a discharge **or a change** or increase in any discharge of a contaminant into an outstanding waterbody*

*LW3A 2.d a discharge **or a change** or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody.*

- 4.4 It is laudable to consider potential effects, and the explanation for Policy LW3A⁶ focusses on cumulative adverse effects, but the policy itself refers to “a change”. This could be any change, including those that are regarded as positive. For example, it would appear that it could capture proposed land use change in a highly erodible landscape from pastoral farming to permanent or plantation forest cover. Although this activity is regarded as positive for ecology, in that all evidence points to it reducing sediment discharges, it will change the discharge profile. LW3A 2.1.c and d would require assessment of the effect of such a land use change on OWB. I note that this proposal to change land use from pastoral to various forms of forest to reduce sediment discharges,

⁶ Policy LW3A provides guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects, including cumulative adverse effects, on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors shall can be taken into account considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy LW3A takes effect after the objectives and limits have been set across the region and included in the Regional Resource Management Plan as required by the National Policy Statement for Freshwater Management.

is one that the Hawkes Bay Regional Council is actively and explicitly identifying candidate land areas for.

- 4.5 I consider that it would be more appropriate to delete from both LW3A 2.1.c and 2.1.d “a discharge or a change or” and instead commence both of these requirements at “an increase in any discharge...”

5. Lack of certainty because of no spatial definition

- 5.1 The s42A in Paragraph 450 advises that PPC7 was notified without any maps of OWB extent for their associated outstanding values. Instead Schedule 25 provides a short narrative description of the relevant outstanding value(s), which in some instances includes their location(s). Reporting officers advise that developing definitive maps of the location and extent of each of the OWB and their outstanding values remains a very challenging task in the absence of clear complete evidence. Consequently they do not recommend amending PPC7 to include maps for each of the OWB and their respective outstanding value(s).

- 5.2 I consider that for catchments where there is a substantial body of information on outstanding values, and/or where the information used to inform Schedule 25 is clear in its spatial extent, that it would be more efficient and appropriate to include the spatial extent of such values in PPC7, rather than requiring this be done as a reductive two-step process via PPC7 setting values followed by catchment plans defining spatial extent. This appears to be the view of staff in the s42A report:

451. Several submitters have requested the outstanding classification be limited to those areas of the water body which contain the outstanding value, to provide certainty and clarity to plan users around which part of the water body supports the outstanding values.

- 5.3 Such an approach would result in a degree of unevenness to the detail of information set out in Schedule 25 and accompanying maps for the period from now until 2026. However it seems fairer to those seeking or processing consents in the next five years to have as accurate information as is available for this interim period, rather than withholding what is already available, in the name of consistency of approach.

- 5.4 The PPC7 revisions to Policy LW1.1.d and dA seek to protect outstanding and significant values of OWBs identified in Schedule 25. Schedule 25 does not define the spatial extent of OWB values, which would appear mean that the entire water body must be presumed to be outstanding.

5.5 The s42A notes⁷ that Policy LW1.1.dA ensures that for water quality and quantity, these aspects of an OWB are assessed, and protected where appropriate, while providing future catchment planning processes with the flexibility to either maintain or improve the water quality of OWB, using relevant information at the time.

5.6 Once an entire water body is described as OWB for one or more values, as will be the case through the use of Schedule 25, it is not clear to me how a subsequent plan change can narrow down the spatial extent while continuing to meet an intent of protection that has already been set. Staff seem to be alert to the problems this may pose in their comments on this in the s42A.

452. Reporting officers agree with submitters that Table 2 of Schedule 25 should be amended to better define the outstanding water body classification to only those parts of the water body where the outstanding value currently exists. In future catchment-based planning processes, it is expected that the contribution any other parts of the same water body, or other water body(s) make in support of the outstanding value(s) will be identified and managed accordingly.

453. If the Panel ..concludes that the outstanding status be limited to relevant parts of the water body, the Reporting officers recommend that its associated outstanding description is updated in accordance with the further information provided by submitters and information contained in the summary of values reports set out in Paragraph 37.

5.7 To include as much information as possible would be consistent with Policy LW1.2.bA.iA, which instructs Council to identify the spatial extent of waterbody classified as outstanding. It would also be consistent with supporting an efficient assessment process for an applicant or consent processing officer, to have as much information on the extent so that they can constrain their assessment to the relevant area and value considerations.

5.8 I am not in a position to suggest exact additional wording for Schedule 25, to ensure that it is as accurate as possible with respect to the spatial location of outstanding values. Instead I note that council staff has sourced and reviewed a large body of material to draw the conclusions they have on which values are outstanding (Column 3 of Table 2), and it is likely that in a number of instances this source material would point to more specific locations than the entire catchment – as is evident in Table 2A. It would also seem likely that there will be instances where this information is not controversial. To wait until there is thorough knowledge of all outstanding values before refining the detail in Table 2 will needlessly hinder the value that incomplete information would provide,

⁷ at paragraph 233

particularly for a more efficient assessment process for an applicant or consent processing officer.

5.9 One further suggestion for the usability of Table 2 would be to format it so that the description of the outstanding value (right-hand column of Colum 3) correlates with the outstanding value of the left-hand column of column 3 and that where the spatial extent is relatively clear, that this is included for each value in much the same way as has been done in table 2A.

6. Waipunga River

6.1 The uncertainty created by the absence of spatial extent for OWB values in PPC7 can be demonstrated using the Waipunga River. The Waipunga is a tributary to the Mohaka so will activate Table 2A, triggering an assessment requirement under Policy LW2.1.c. Policy LW2.1.b.ii applies to resource consents sought for activities in the specified catchments when no catchment-based regional plan has been prepared (Policy LW2 is replaced by Policy LW3A once a relevant catchment based regional plan change is operative or after 31 December 2025).

6.2 It is not clear whether all resource consent applications that may have an effect on fresh water will be assessed for their effect on OWB, but a conservative interpretation would assume that it applies to all applications relevant to the overall objective of LW 1: Fresh water and the effects of land use and development are managed in an integrated and sustainable manner...

6.3 The OWB values and uses are to be assessed in a priority sequence set out in Policy LW2.1.c. which requires consideration of Table 2 of Schedule 25 then consideration of Table 2A of Policy LW2. Pol LW2.1.c.iii seeks to maintain the primary values set out in Table 2A, some of which are quite spatially specific. Pol LW2.1.c.i takes priority over 2.1.c.iii and requires that the outstanding values of any OWB in Table 2 are protected, even though the location of these values is not defined.

6.4 For the Waipunga the effect of this approach on what values must be considered in consents is as follows:

<u>Policy LW2 1.c</u>	<i>value</i>	<i>Spatially defined?</i>
<u>i) Protecting outstanding values of any outstanding water body in Schedule 25, then</u>	<i>cultural only</i>	<i>no spatial component defined</i>
<u>ii) Protecting significant values of any outstanding water body in Schedule 25, then</u>	<i>unspecified,</i>	<i>no spatial component defined</i>

iii) Maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 2A, then	<i>(as a subset of Mohaka, noting the Mohaka values are of the middle reaches, below the Waipunga confluence)</i>	
	<i>recreation – water based</i>	<i>yes yes, reach defined. Only applies to Mohaka mainstem</i>
	<i>significant fauna (water birds, longfinned eel)</i>	<i>not defined</i>
	<i>cultural</i>	<i>not defined</i>
	<i>fish passage</i>	<i>not defined</i>
	<i>recreation – fishing</i>	<i>yes, reach defined</i>
	<i>scenic</i>	<i>yes, location</i>
	<i>natural character</i>	<i>defined</i>
		<i>not defined</i>
iv) Having particular regard to the secondary values and uses of freshwater bodies identified in Table 2A, <u>then...</u>	<i>(as a subset of Mohaka, many of which relate to the mainstem only)</i>	

- 6.5 PPC7 Schedule 25 classified the Waipunga River as an OWB on the basis of cultural values, as it met 5 or more key cultural values⁸. The spatial extent of the Waipunga that has been classified as outstanding (cultural values) is unstated in PPC7, to be confirmed in a subsequent catchment planning process. However the description of these values suggests that they extend from the Tarawera Settlement downstream; described in the history with the River provided by Ngati Hineuru.
- 6.6 The primary values and uses of the Mohaka catchment are set out in Table 2A, including in some instances descriptors of the spatial location/extent of the various values. The s42A report, summarising the inputs from the reports considered to make the initial values assessments for OWB status. The Map at Appendix 3 shows middle reaches of Mohaka as outstanding, but not the Waipunga.
- 6.7 The Waipunga River ecological value was assessed as excellent (MCI 119), but not outstanding, although the s42A – confusingly - has two different assessments: The Waipunga River is identified as having outstanding ecology (for macroinvertebrates)⁹, and Waipunga River (macroinvertebrates) Preliminary Assessment Findings: TBC Not outstanding* subject to change¹⁰).

⁸ These being: 1.Wāhi Tapu, Wāhi taonga; 2.Wai Tapu; 4.Mahinga kai, Pa tuna; 5.Pa, kāinga; 7.Rohe Boundary

⁹ at paragraph 1621

¹⁰ at paragraph 1638, Table 113.

- 6.8 The s42A report recommends amending Schedule 25, Waipunga River “as per the amendments set out in Appendix 1”. Given that the Waipunga is considered not outstanding for ecology, it appears that a further amendment is required to remove reference to ecology from the outstanding description, shown in double strikethrough below.

37 Waipunga River

Outstanding value(s) - Cultural, spiritual, ~~ecology~~

Description of outstanding value(s)

~~The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region.~~ Hineuru has a particular cultural, spiritual, historical, and traditional association with Waipunga River.

~~The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.~~

~~Ngāti Hineuru had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.~~

~~The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.~~

~~The forest around the Waipunga River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.~~

~~The Waipunga River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process~~

~~Tāngata whenua of the region have advised that the Waipunga River has outstanding cultural and spiritual values. **~~

Significant value(s) Description of significant value(s)

The significant values, and their associated descriptions, for each outstanding water body will be included after a catchment based regional plan change has been made operative for the relevant catchment (see Policy LW1 and Policy C1

Bridget Robson

15 November 2020

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF proposed Plan Change 7 to the
Hawke's Bay Regional Resource
Management Plan

AND submissions and further submissions
lodged by **Trustpower Limited**

STATEMENT OF EVIDENCE OF NICOLA IRENE FORAN

1. INTRODUCTION

1.1 My full name is Nicola Irene Foran.

1.2 I am employed by Trustpower Limited (“**Trustpower**”) as a Lead Environmental Advisor and am based at its head office in Tauranga.

1.3 I am authorised to present this evidence on behalf of Trustpower.

2. QUALIFICATIONS AND EXPERIENCE

2.1 I hold the qualifications of Bachelor of Science (Earth Science) from the University of Waikato (2004) and a Post Graduate Diploma in Arts (Planning) from Massey University (2010). I am a full member of the New Zealand Planning Institute and have over 15 years’ experience in the field of environmental and resource management.

2.2 I have been employed by Trustpower since 2013. Prior to joining Trustpower, I worked as an Environmental Planning Consultant in the Hawke’s Bay Region for 5 years, and amongst other roles, as an Environmental Co-ordinator with Genesis Energy for 2.5 years.

2.3 In my position at Trustpower, I am responsible for, amongst other things, resource management regulatory processes, which may contribute to, or impact on Trustpower’s existing, consented or prospective electricity generation assets and associated infrastructure. These include managing the regulatory monitoring of planning activities across New Zealand, providing input into regional and district planning activities, including Environment Court appeal processes.

2.1 I have read, and agree to comply with, the Environment Court’s Code of Conduct for Expert Witnesses contained in the Practice Note 2014. I confirm that the issues addressed in this statement of evidence are within my area of expertise (unless I state otherwise). I also confirm that I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express in this evidence.

3. TRUSTPOWER’S BACKGROUND

3.1 Trustpower is a publicly listed company and is predominantly a New Zealand owned company. It grew from the Tauranga Electric Power Board (established in 1924), and was formed as part of the deregulation of the electricity supply industry in the mid-1990s.

3.2 Following the 1999 electricity reforms (introduced by the Electricity Industry Reform Act 1998), Trustpower sold its local transmission business and grew its generation and retail

operations. In this respect, Trustpower's customer base grew from 50,000 to over 200,000, while its annual generation capacity increased from 300 GWh to 2,803 GWh.

3.3 Trustpower currently generates approximately 11% of New Zealand's total electricity supply and serves approximately 220,000 electricity customers, 32,000 gas customers and 83,000 telecommunications customers.

3.4 The value of Trustpower's generation assets is inherent within its resource consents and in particular, within its resource consents for its hydro-electric power schemes. As with other hydro-electric power generators, the economic viability of the Company's assets is largely dependent on the water available for generation and the security of its resource consents.

4. GENERATION PHILOSOPHY AND CURRENT GENERATION PORTFOLIO

4.1 There are three key features of Trustpower's generation philosophy and portfolio that distinguishes it from New Zealand's other large generators. Namely, a commitment to:

- a) Small to medium hydro-generation;
- b) Local supply; and
- c) The use of renewable resources.

4.2 Trustpower owns and operates 20 hydro-electric power schemes ('HEPS') throughout New Zealand, and is a part owner and operator of a further 5 HEPS after acquiring a majority share in King Country Energy. These HEPS range in size from 2 MW to 86 MW installed capacity. These schemes are either connected to the local distribution network, where electricity is supplied close to its demand area, or connected to the National Grid to meet electricity demand elsewhere.

4.3 As Trustpower's HEPS are located across 10 regions in New Zealand, Trustpower is acutely aware of the new national direction for Freshwater Management, and proactively engages in freshwater management planning process around the country.

5. TRUSTPOWER'S GENERATION IN THE HAWKE'S BAY REGION

5.1 Trustpower's interests in the Hawke's Bay Region centres on the Esk hydro-electric power scheme.

Esk Hydro-electric Power Scheme

- 5.2 The Esk Hydro-Electric Power Scheme ('the scheme') is a 4 MW scheme located in the headwaters of the Esk River. The scheme consists of two small Power Stations, which take water from the Rimu and Toronui stream respectively. The stations do not cascade and as such the design of each can be optimised separately. Each intake has a sediment settling pond and tunnels which convey the water to the two power stations. From there the water flows out back into their streams and into the Esk River.
- 5.3 The two power stations, Rimu and Toronui, generate a combined 4MW of electricity and on average 13 GWh per year, or enough electricity to annually supply 2,000 average households. The scheme shares land access agreements and a common transmission system connecting into Unisons electricity network, supplying electricity to Napier and surrounds.

6. TRUSTPOWERS INTERESTS IN PLAN CHANGE 7

- 6.1 Trustpower takes an active role in ensuring its ability to operate its existing hydro-electric power schemes under its resource consents is protected. While participating in this plan change process, Trustpower's HEPS was not directly affected as the notified version of the plan did not list the Esk River or its tributaries as an Outstanding Waterbody. Neither, to my knowledge, has any other submitter sought this waterbody to be recognised as outstanding.
- 6.2 However, given Trustpower's wide ranging assets across New Zealand, and that this is one of the first Councils to go through this process under the National Policy Statement for Freshwater Management 2014 ('NPS:FM'), we are inherently interested in this process, and in particular the methodology the Regional Council uses to assess the waterbodies in its region to determine their outstanding values.
- 6.3 In this respect, Trustpower focused its submission on the methodology in assessing the waterbodies in the region, and how the Council determined which waterbodies should be considered outstanding.

7. TRUSTPOWER'S KEY SUBMISSION POINTS

Assessment of Outstanding

- 7.1 Trustpower generally supports the Regional Councils approach to identifying its outstanding waterbodies. In its submission, Trustpower commented on how it considered that a waterbody should demonstrate values in an outstanding manner.

- 7.2 Trustpower noted concerns with waterbodies only demonstrating one outstanding value, and being considered outstanding, and the perverse outcomes that may result from this, such as having a wide range of waterbodies afforded outstanding status, and compromising the value of this recognition.
- 7.3 This is partially evident in waterbodies which demonstrate a cultural or spiritual value. As discussed in its submission, Trustpower considered that while a waterbody may demonstrate a cultural or spiritual value, it should also demonstrate another value in an outstanding manner in order for the waterbody to be considered outstanding.
- 7.4 Trustpower also noted that it understands and respects that all waterbodies are taonga, and hold mauri, and that tangata whenua hold spiritual connections to their awa.
- 7.5 I acknowledge that the then NPS:FM 2014¹ and the new NPS:FM 2020 does not provide guidance, clarity or criteria on what should be considered an outstanding waterbody, and I can appreciate the challenge the Council has in this identification process.
- 7.6 In reviewing the S.42A Report, I note the Reporting Officer has not made any recommendations regarding the cultural and spiritual value set, and outlined reasoning for this, an approach I support.
- 7.7 I also note that the Reporting Officer has recommended the inclusion of the OWB Identification Screening Framework which requires a waterbody to display the Cultural and Spiritual value on a region wide basis; and in addition the Reporting Officer recommends that all waterbodies are assessed against this framework, and those that do not meet the criteria for outstanding are deleted from Schedule 25. I support that recommendation.

Outstanding and Significant Values of Waterbodies and their management

- 7.8 Regarding the Reporting Officers discussion on the difference between and outstanding value and a significant value², I support the conclusion that there is a difference between and outstanding and significant values, and that not all significant values would be considered outstanding. I also support the approach recommending that an outstanding waterbody should have its significant values identified as part of a catchment based planning process.

¹ Including its amendment in 2017

² Paragraphs 226-227, 236-243 of the S.42A Report

Schedule 25

- 7.9 The recommendation by the Reporting Officer to include the OWB Identification Screening Framework which was developed as part of the Community Environment Fund is a welcomed amendment. I agree with the Reporting Officer that this will provide clarity and certainty to plan users and reduce the potential for ad-hoc identification of outstanding waterbodies in the future.
- 7.10 When reviewing this framework, I found it to be thorough in its structure, and the criteria is clear on what attributes a waterbody needs to demonstrate to be considered outstanding, and including what is considered acceptable evidence of this.
- 7.11 In respect of the concerns Trustpower raised in its submission on the Cultural and Spiritual value, I consider that Table 1A addresses these concerns, as it makes clear that the two components make up the one value (Cultural *and* Spiritual), and that the features of a waterbody need to be outstanding to Maori on a region wide basis, as opposed to a localised basis.
- 7.12 Therefore, I support the inclusion of this Table 1A as noted in Appendix 1 of the S.42A Report.
- 7.13 In regard to the waterbodies that have been identified as outstanding in Table 2 of Schedule 25, Trustpower submitted that those waterbodies that only display one value in an outstanding manner should be deleted from the table.
- 7.14 As mentioned above, with the introduction of the OWB Identification Screening Framework, I am comfortable with the continuation of a waterbody only being required to demonstrate one value in an outstanding manner, providing that the value is demonstrated in a region wide context.
- 7.15 I agree with and support the Reporting Officers recommendation to the Hearings Panel that if it finds a waterbody is not outstanding for the purposes of the NPS:FM and PC7, then it should be deleted from Schedule 25³. I also support the recommendation that the OWB Identification Screening Framework should be applied to the waterbodies in Schedule 25 and any additional waterbodies requested⁴.
- 7.16 By undertaking this screening and removing any waterbodies that do not display a value in an outstanding manner, will ensure that only those waterbodies which have

³ Paragraph 434 of the S.42A Report

⁴ Paragraph 436 of the S.42A Report

exceptional qualities and are considered 'the best of the best'⁵ are afforded the outstanding status and the protection that comes with it.

8. CONCLUSION

- 8.1 Trustpower owns and operates the Esk hydro-electric power scheme in the Hawke's Bay Region, which operate under various resource consents.
- 8.2 Trustpower is acutely aware of the challenges the Council has in identifying outstanding waterbodies in the region, with the absence of national guidance, however Trustpower generally supports the approach taken in this.
- 8.3 I support the Reporting Officers' recommendation to include the OWB Identification Screening Framework (Table 1A) in Schedule 25. I also support the recommendation to have this framework applied across all waterbodies currently listed in Schedule 25 (and any others requested to be included), and subsequently delete any waterbodies which do not meet this criteria to be considered outstanding.
- 8.4 I thank the Hearings Panel for considering my statement of evidence today.



Nicola Irene Foran (BSc, PGDipArts, MNZPI)

12th November 2020

⁵ Paragraph 116 of the S.42A Report

13 November 20

Hawkes Bay Regional Council
Governance Administration Assistant

By e-mail: owb@hbrc.govt.nz

Dear Sir/Madam,

Re: Hearing statement on behalf of the Oil Companies (Submitter 41) on Proposed Plan Change 7 – Outstanding Water Bodies to the Hawke’s Bay Regional Resource Management Plan

We refer to the abovementioned matter set down for a hearing commencing 22 December 2020. Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (*the Oil Companies*) submitted in relation to plan change 7 (submitter 41). The Oil Companies will not be attending the hearing as they are generally in agreement with the recommendations of the reporting planners and instead ask that this statement be tabled before the Hearing Commissioners.

The statement has been prepared on behalf of the Oil Companies and represents their views. The statement relates to the relevant submission by the Oil Companies, including how they have been addressed in the Section 42A reports. The detail of these submissions, the s42A recommendations, and the Oil Companies’ views re the same are set out at **Annexure 1**. The Oil Companies support the recommendations of the reporting planners, subject to one point of clarification with regard to Policy POL LW3A as detailed in **Annexure 1**, and ask that the Hearing Commissioners adopt the provisions in line with those recommendations.

Kind Regards,



Sean Stirling
Planning and Policy Consultant
4Sight Consulting Limited

Encl: Appendix 1 – Recommendations in response to the Oil Companies’ submissions.



Attachment 1: HBRC OWB Plan Change 7

Table summarising the submissions of the Oil Companies, the recommendations of the Reporting Planner, and the position of Oil Companies with respect to the same *Changes to the notified provisions sought in the Oil Companies' submission are shown in underline and strikethrough. Changes proposed to the notified provisions proposed by the Reporting Officer's 42a report are highlighted green.*

Submission Number.	Section and Notified change	Submission	S42A Recommendation	Comment
Chapter 3.1A – Integrated Land Use and Freshwater Management				
LW - Objectives				
41.1	<p>OBJ LW1 – Integrated management of fresh water and land use and development</p> <p><i>Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes:</i></p> <ol style="list-style-type: none"> 1. Protecting the <u>outstanding and significant values qualities</u> of outstanding freshwater bodies identified listed in <u>Schedule 25 Hawke's Bay</u>; 2. 	<p>Support</p> <p>Retain OBJ LW 1 as notified. A direction to protect is a strong direction. The Oil Companies support the focus on protecting the <i>outstanding and significant values</i> (and not all values) and the identification of the same in a schedule to the plan.</p>	Retain Objective LW1.1 as notified	Support the recommendation
LW – Policies				
41.2	<p>POL LW1 – Problem solving approach – Catchment-based integrated management</p> <ol style="list-style-type: none"> 1. <i>Adopt an integrated management approach to fresh water and the effects of</i> 	<p>Support</p> <p>Retain POL LW1.1. as notified. The Oil Companies support the requirement to determine the</p>	Amend Policy LW1 to remove the reference to the identification of OWB significant values from Clause 1(cC) and insert them into Clause 2(bA)(i)	<p>Support the recommendation</p> <p>The intent of the</p>

	<p>land use and development within each catchment area, that:</p> <p>cC <u>assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of those water bodies. This assessment includes consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant takin into account local and/or regional circumstances.</u></p> <p>d) <u>gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A protects the outstanding and significant values of those outstanding water bodies identified in Schedule 25⁴;</u></p> <p>dA) maintains, and where necessary enhances, the water quality of those outstanding freshwater bodies identified in Schedule 25 the catchment, and where appropriate, protects the water quantity of those outstanding freshwater bodies;</p>	<p>significant values of outstanding water bodies. This will help ensure activities that may have effects, but not on those particular values, will not be unduly restricted and is consistent with Objective A2 of the NPSFM.</p>	<p>1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:</p> <p>cC <u>assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of those water bodies. This assessment includes consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant takin into account local and/or regional circumstances.</u></p>	<p>identification of OWB significant values is supported by Council however has been relocated to Clause 2(bA)(i) where it is deemed more appropriate.</p>
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<p>41.3</p> <p>41.4</p>	<p>2. <i>When preparing regional plans:</i></p> <p><i>bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and</i></p> <p><i>bA) in relation to any relevant outstanding water bodies identified in Schedule 25:</i></p> <p><i>i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;</i></p> <p><i>ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;</i></p> <p><i>iii) Include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.</i></p>	<p>Support</p> <p>The Oil Companies support the need to identify significant values, including their spatial and temporal extent to enable protection of those values without unintentionally restricting a range of other activities.</p> <p>The Oil Companies also support the intention at bAiii to include regional plan provision to manage activities to avoid adverse effects that are more than minor but note the inference is that minor effects may be acceptable. Any provisions allowing minor effects would need to be carefully drafted to align with the balance of objectives and policies but in principle the Oil Companies support an approach that does not set a zero effects threshold. This may be significant for a range of activities, including</p>	<p>Amend Policy LW1 to incorporate the identification of OWB significant values from Clause 1(cC) into Clause 2(bA)(i)</p> <p><i>bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and</i></p> <p><i>bA) in relation to any relevant outstanding water bodies identified in Schedule 25:</i></p> <p><i>i) Carry out an assessment which identifies the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant. This assessment includes consideration of the values set out in Appendix 1 of the National Policy Statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional circumstances;</i></p> <p><i>(A) identify the spatial extent of the outstanding and significant values as relevant;</i></p>	<p>Support the recommendation</p> <p>The intent of the identification of OWB significant values has been relocated to Clause 2(bA)(i) from Clause 1(cC)</p>
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		<p>maintenance, upgrade and operation of a range of existing activities.</p>	<p><i>ii) <u>establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;</u></i></p> <p><i>iii) <u>Include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.</u></i></p>	
<p>41.5</p> <p>41.6</p>	<p><i>POL LW2 – Problem solving approach – Prioritising values</i></p> <p><i>Subject to achieving Policy LW1.3: Policy 1.</i></p> <p><i>a) Policy LW 2.1 applies in the following catchment areas:</i></p> <p><i>i) Greater Heretaunga / Ahuriri Catchment Area</i></p> <p><i>ii) Mohaka Catchment Area</i></p> <p><i>ii) Tukituki Catchment Area.</i></p> <p><i>b) Policy LW2.1 applies:</i></p> <p><i>i) When preparing regional plans for the <u>specified</u> catchments <u>specified in Policy LW 2.1;</u> and</i></p>	<p>Support</p> <p>The Oil Companies support the prioritisation of values and uses as prescribed by this policy, particularly the requirement to protect outstanding and significant values and the less directive requirements for other values.</p>	<p>Amend Policy LW2 to give effect to the NPSFM OWB provisions, by providing clear guidance that the outstanding then the significant values, of any OWB in these catchments will be prioritized over other values and uses in these catchments.</p> <p><i>Subject to achieving Policy LW1.3: Policy 1.</i></p> <p><i>a) Policy LW 2.1 applies in the following catchment areas:</i></p> <p><i>i) Greater Heretaunga / Ahuriri Catchment Area</i></p> <p><i>ii) Mohaka Catchment Area</i></p> <p><i>ii) Tukituki Catchment Area.</i></p>	<p>Support the recommendation</p>

	<p>ii) When considering resource consents for activities in the specified catchments when no catchment-based regional plan has been prepared for the relevant catchment.</p> <p>c) Give priority to <u>Values and uses of water bodies in these catchment areas will be prioritised as follows:</u></p> <p>i) <u>Protecting outstanding values of any outstanding waterbody in Schedule 25, then</u></p> <p>ii) <u>Protecting significant values of any outstanding waterbody in Schedule 25, then</u></p> <p>iii) <u>Maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 2A, then</u></p> <p>iv) <u>Having particular regard to the secondary values and uses of freshwater bodies identified in Table 2A, then</u></p> <p>v) <u>For values not specified in Table 2A or Schedule 25, the management approach set out in Policy LW 1 – will apply</u></p>		<p>b) Policy LW2.1 applies:</p> <p>i) When preparing regional plans for the <u>specified catchments specified in Policy LW 2.1; and</u></p> <p>ii) When considering resource consents for activities in the specified catchments when no catchment-based regional plan has been prepared for the relevant catchment.</p> <p><u>6A) Policy LW2.1 does not apply after a regional plan implementing the 2020 National Policy Statement for Freshwater Management for the specified catchments is made operative.</u></p>	
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	<p>vi) Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 2A, using an integrated catchment-based process in accordance with Policy LW 1. 1, Policy 1.2, Policy 1.3 and Policy 1.4 or when considering resource consent application where no catchment-based regional plan has been prepared.</p>			
41.7	<p><u>POL LW3A – Decision Making Criteria – Outstanding Water Bodies</u></p> <p>1. <u>In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:</u></p> <p>a. <u>The extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody</u></p> <p>b. <u>the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody</u></p>	<p>Support in Part</p> <p>The Oil Companies support POL LW3A in part subject to clarification that the policy does not require the activities listed to require discretionary or non-complying consent in scheduled areas.</p> <p>Amend POL LW3A.2 to be clear that it does not necessarily require that the activities listed require resource consent. This could be achieved by amending the policy to read as follows:</p>	<p>Amend POL LW3A to require a consent authority to ‘take into account’ the factors set out in sub-clauses (a) to (d) rather than ‘to have regard’.</p> <p><u>POL LW3A – Decision Making Criteria – Outstanding Water Bodies</u></p> <p>1. <u>In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account have regard to:</u></p>	<p>Support the recommendation subject to clarification that the policy does not require the activities listed to require discretionary or non-complying consent in scheduled area, as per the Oil Companies’ original submission.</p>

	<p>c. <u>whether, in order to protect the waterbody's outstanding values and significant values:</u></p> <ul style="list-style-type: none"> i. <u>the location of the proposed activity is appropriate</u> ii. <u>time limits, including seasonal or other limits on the activity may be appropriate.</u> <p>d. <u>If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference.</u></p> <p>2. <u>Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan:</u></p> <ul style="list-style-type: none"> a. <u>A take, use, damming, or diversion of water from an outstanding waterbody</u> b. <u>A change to any existing take, use, damming or diversion of water from an outstanding waterbody</u> c. <u>A discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody</u> d. <u>A discharge or a change or increase in any discharge of a contaminant onto</u> 	<p>2. <u>Policy LW3A.1 only applies to the following activities <u>when they are classified as a discretionary activity or a non-complying activity by a rule in a regional plan:</u></u></p>	<ul style="list-style-type: none"> e. <u>The extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody</u> f. <u>the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody</u> g. <u>whether, in order to protect the waterbody's outstanding values and significant values:</u> <ul style="list-style-type: none"> i. <u>the location of the proposed activity is appropriate</u> ii. <u>time limits, including seasonal or other limits on the activity may be appropriate.</u> h. <u>If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference.</u> <p>2. <u>Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal plan):</u></p>	
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	<p><u>or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody</u></p> <p>e. <u>A land use consent for any new structure in the bed of an outstanding waterbody</u></p> <p>f. <u>A land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorized by a current land use consent.</u></p> <p>3. <u>Policy LW3A.1 only applies in the following circumstances:</u></p> <p>a. <u>Where a description of the outstanding waterbody’s outstanding values(s) is stated in Schedule 25 and/or</u></p> <p>b. <u>Where a description of the outstanding waterbody’s significant values(s) is stated in Schedule 25.</u></p>		<p>a. <u>A take, use, damming, or diversion of water from an outstanding waterbody</u></p> <p>b. <u>A change to any existing take, use, damming or diversion of water from an outstanding waterbody</u></p> <p>c. <u>A discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody</u></p> <p>d. <u>A discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody</u></p> <p>e. <u>A land use consent for any new structure in the bed of an outstanding waterbody</u></p> <p>f. <u>A land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorized by a current land use consent.</u></p> <p>3. <u>Policy LW3A.1 only applies in the following circumstances:</u></p>	
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			<p>a. Where a description of the outstanding values(s) of the outstanding waterbody's outstanding values(s) is described stated in Schedule 25 and/or</p> <p>b. Where a description of the significant value(s) of the outstanding waterbody's significant values(s) is described stated in Schedule 25.</p> <p><u>Principal reason and explanation</u> <u>Policy LW3A provides guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects, including cumulative adverse effects, on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors shall not be taken into account considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy LW3A takes effect after the objectives and limits have been set across the region and included in the Regional Resource Management Plan as required by the National Policy Statement for Freshwater Management.</u></p>	
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BEFORE THE HEARING COMMISSIONERS

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Proposed Plan Change 7 to the Hawke's Bay
Regional Resource Management Plan

**STATEMENT OF EVIDENCE OF ETHAN JOHN GLOVER ON BEHALF OF
SILVER FERN FARMS LIMITED**

13 November 2020

INTRODUCTION

Qualifications and experience

1. My name is Ethan John Glover. I hold the degree of Bachelor of Science (Hons) from the University of Otago. I am employed as a consultant with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand, with offices in Auckland, Hamilton, Napier and Dunedin.
2. I have practiced in the field of resource management for the past two years during which time I have had an assisting role in many resource management projects throughout New Zealand, including plan changes and reviews.
3. I am an associate member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
4. I have prepared this statement of evidence in my capacity as an expert and acknowledge that I have read and understand the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note dated 1 December 2014. I have complied with it when preparing my statement of evidence, and I agree to comply with it when I give any oral evidence. Other than where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I was engaged in September 2020 by Silver Fern Farms Limited ("**Silver Fern Farms**") to provide planning advice in respect of Proposed Plan Change 7 ("**PC7**") to the Hawke's Bay Regional Resource Management Plan ("**RRMP**"). I prepared Silver Fern Farms' further submission on this matter. I have read the summary of submissions, full copies of relevant submissions and further submissions and the Council's Section 42A report on the provisions to which this brief of evidence relates.

Silver Fern Farms background and interest in PC7

6. Silver Fern Farms is a large meat processing and exporting company, operating 13 processing plants throughout New Zealand. Silver Fern Farms was founded in 1948 and is owned in 50/50 partnership with Silver Fern Farms Co-operative and Shanghai Maling Aquarius Co Ltd.

7. On an annual basis, Silver Fern Farms process 30% of all New Zealand's lamb, beef and venison, sourced from 16,000 sheep, beef and deer farms. As a partially owned co-operative company, profits are returned back into the community through the farmer shareholders, with a portion retained for growth and capital upgrades, including environmental improvements. In the peak seasons, Silver Fern Farms employs over 7000 people nationwide (permanent and seasonally).
8. Silver Fern Farms' annual turnover for the 2018/2019 season was \$2.4 billion, with an operating profit of \$70.7M after tax.
9. Silver Fern Farms owns and operates the Pacific Processing Plant ("**the Plant**") which is located adjacent to the Karamū River and over the Heretaunga Aquifer, both of which have been identified as outstanding water bodies in PC7. Operating over two shifts, the Plant produces beef for domestic and export markets, and provides employment to approximately 550 people, year-round. Operations include the receipt of animals, processing, packing, chilling and load out of product. By-product processing of hides and renderable material occurs off-site.
10. A secure and reliable supply of good quality water is essential for enabling the provision of service to Silver Fern Farms' farmer suppliers, through hygienic production that meets the strict regulatory requirements for New Zealand and overseas markets. In this regard, Silver Fern Farms relies on water abstracted from the Heretaunga Aquifer, for which it holds a water permit.¹
11. Silver Fern Farms also rely on the ability to discharge defrost water, cooling water and stormwater from the Plant into the Karamū River, for which it holds a discharge permit.²
12. For the reasons outlined above, Silver Fern Farms has an interest in PC7 that is greater than the interest the general public has. It is in that context that Silver Fern Farms lodged a further submission on PC7. Silver Fern Farms did not lodge a primary submission on PC7.

Scope of evidence

13. In this brief of evidence, I will:
 - (a) Outline the themes of the further submissions lodged by Silver Fern Farms on PC7;

¹ WP050007T.

² AUTH-121581-03.

- (b) Discuss the recommendations on Silver Fern Farms' further submissions made in the reporting officer's section 42A report;
 - (c) Provide my comments and conclusions on these matters.
14. In preparing this evidence, I have reviewed Silver Fern Farms' current resource consents, as well as the following:
- (a) Silver Fern Farms' Further Submission on PC7, dated 10 September 2020;
 - (b) Section 32 Evaluation Report for Plan Change 7 ("**section 32 report**");
 - (c) Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay report, dated 14 March 2018;
 - (d) Outstanding Water Bodies in Hawke's Bay: Report of the Expert Panel, dated April 2019;
 - (e) Heretaunga Aquifer Summary of Values report, dated August 2020;
 - (f) Karamū River Summary of Values report, dated August 2020;
 - (g) Water Conservation Order Review: Outstanding Values: Key Features report, dated September 2020; and
 - (h) Section 42A report on PC7, dated October 2020 ("**section 42A report**") and all appendices prepared by Ms Belinda Harper and Ms Nichola Nicholson.

SILVER FERN FARMS' FURTHER SUBMISSION

15. The key issues of concern to Silver Fern Farms in respect of PC7 were highlighted in its further submission and are summarised as follows:
- (a) The process utilised by the Hawke's Bay Regional Council to determine which waterbodies are outstanding; and
 - (b) The identification of the Heretaunga Aquifer and the Karamū River as outstanding waterbodies without any consideration of the existing use values of these water bodies.

16. I address each of these matters from a planning perspective in my evidence.

What constitutes “outstanding”?

17. As I understand, “outstanding” at the national level is well settled from water conservation order processes as meaning the “best of the best” on a (national) comparative basis.

18. In relation to outstanding waterbodies, the section 32 report for the National Policy Statement for Freshwater Management 2014 (amended 2017) (“**NPSFM 2017**”), states:

“Environment Court decisions indicate in that context “the test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a national basis”.

19. The section 32 report for the current National Policy Statement for Freshwater Management 2020 (**NPSFM 2020**), also expects that:

Waterbodies identified as having outstanding values, particularly those which qualify due to landscape and recreation values are likely to be regarded as tourist attractions, therefore their protection supports the significant economic benefits associated with the tourism sector.

Outstanding water bodies can be expected to have a high visual and amenity value, which is often associated with tourism and recreation e.g. Lake Taupo.

20. The section 42A report for PC7 states [**emphasis added**]:

312. The NPSFM recognises that OWB are a limited class of water bodies which warrant special protection in regional policy statements and plans. The purpose of the provisions is to protect the outstanding and significant values of an OWB as they currently exist.

313. Clause 2(bA)(iii) gives further effect to the NPSFM by requiring future plans to include provisions that will avoid adverse effects, that are more than minor, on the outstanding and significant values of OWB. While not specified, cumulative effects can be taken into account.

314. The wording of Clause 2(bA)(iii) is potentially more stringent and directive than the NPSFM. However, given that OWB are a limited class of water bodies that contain the 'best of the best' values in the region, it is appropriate that these types of values are protected in this manner from all types of activities.

315. Amending Clause 2(bA)(iii) to allow adverse effects that are more than minor on the significant and outstanding values of an OWB, may over time erode the quality of these values, meaning they are not protected in their current state. Further, the proposed wording of Clause 2(bA)(iii) ensures cumulative effects can be adequately taken into account.

21. I would have anticipated that when considering this same issue at a regional scale, as PC7 is attempting to do, that same “best of the best” principle would apply. As a result, I find it difficult to understand how the Hawke’s Bay Regional Council can justify 38 outstanding waterbodies as being “outstanding”.
22. Other regional councils seem to be more selective in ascribing outstanding status, and I note that no other regional council has identified an aquifer as an outstanding water body for the purposes of implementing the NPSFM.³
23. Taranaki Regional Council, in the report titled “Freshwater bodies of outstanding or significant value in the Taranaki region: Review of the Regional Freshwater Plan for Taranaki”, dated January 2016, came to the conclusion that there were four outstanding waterbodies within the region (albeit covering several tributaries of certain rivers). The Taranaki Regional Council considered that the outstanding threshold should be similar to that of a water conservation order.
24. The Greater Wellington Proposed Natural Resources Plan lists three rivers, three lakes, and a number of wetlands as having “outstanding values”.
25. The Proposed Regional Plan for Northland (Appeals Version – August 2020) identifies six rivers and eleven lakes as being outstanding freshwater bodies.
26. It is my opinion that the Hawke’s Bay Regional Council has not provided any justification for the assertion that there are 38 waterbodies in the region that are outstanding.
27. In this regard, I consider that PC7 does not:
 - (a) Provide sufficient detail justifying the outstanding values for some waterbodies; or
 - (b) Identify the spatial extent of the outstanding values of the identified waterbodies; or
 - (c) Adequately identify the significant values of outstanding waterbodies, as is

³ Section 42A Report, para. 566.

required under both the NPSFM 2017 and NPSFM 2020; or

- (d) Detail any methods as to how the outstanding or significant values will be protected; or
 - (e) Detail the plan provisions to manage activities in the vicinity of the outstanding waterbodies to avoid adverse effects that are more than minor on the outstanding and significant values; and
 - (f) Provide a fulsome section 32 evaluation of the provisions that considers, amongst other required matters, the benefits and costs of the environmental, economic, social and cultural effects of the change.
28. In my opinion, it is not appropriate to identify outstanding waterbodies, require their protection and to rely on subsequent plan change processes to fill in the detail. Instead, that evidence, including a full section 32 analysis of all proposed changes and proposed provisions, should be provided before the plan is changed so that parties can make fully informed submissions as to the implications of what is being proposed.
29. In this regard, I am of the opinion that the Hawke's Bay Regional Council has failed to fulfill its obligations under section 32 of the Resource Management Act ("**the Act**" or "**the RMA**").

Heretaunga Aquifer and the Karamū River

30. The Heretaunga Aquifer is a major system underlying most of the Heretaunga Plains and is a significant water resource for Hawke's Bay.⁴ The Karamū River drains a large part of the Heretaunga Plains and has a catchment area of approximately 510km².
31. As noted in Silver Fern Farms' further submission, the Heretaunga Aquifer and the Karamū River have been identified as having outstanding cultural and spiritual values. The Heretaunga Aquifer was also identified as having outstanding "geology" value.
32. I do not consider it appropriate to identify "geology" as an outstanding value of the Heretaunga Aquifer as all aquifers are, by definition, geological features that are likely to exhibit some geological values. In this regard, I agree with the recommendation of the s42A reporting officers that "geology" should be removed

⁴ Heretaunga Aquifer Summary of Values report, dated August 2020, pg 14.

from the list of outstanding values attributed to the Heretaunga Aquifer in Schedule 25.

33. In respect of the cultural and spiritual values, the recommendation of the section 42A officers is for the Panel to adopt a screening framework to assess if the cultural and spiritual values of the Heretaunga Aquifer and the Karamū River are truly outstanding.
34. As the Panel will be aware, tangata whenua attach high value to all water resources. The significance of the Heretaunga Aquifer and the Karamū River to tangata whenua is not a matter I seek to dispute. The key concern for Silver Fern Farms is the scheduling of these waterbodies as “outstanding” and the implications that might have on existing values and uses that exist in the catchment. In that regard, the costs of these waterbodies being scheduled as “outstanding” on whatever basis needs to be properly considered in order for the Council to properly achieve its obligations inherent in section 32 of the Act.
35. I observe that there is currently no evidence that the scheduling of these waterbodies as outstanding has been transparently and robustly assessed, particularly in light of the Council’s obligations in terms of section 32 of the RMA. This imposes the following obligations:
 - (a) new proposals must be examined for their appropriateness in achieving the purpose of the RMA;
 - (b) the benefits and costs, and risks of new policies and rules on the community, the economy and the environment need to be clearly identified and assessed;
 - (c) all advice received from iwi authorities and the response to the advice needs to be summarised;
 - (d) the analysis must be documented, so stakeholders and decision-makers can understand the rationale for policy choices.⁵
36. From my review of the section 32 documentation prepared to accompany PC7, I can find no adequate justification for the identification of the Heretaunga Aquifer or the Karamū River as outstanding water bodies.
37. The NPSFM 2020 and proposed policies within PC7 also seek to protect

⁵ <https://www.mfe.govt.nz/sites/default/files/media/RMA/guide-to-section-32-of-resource-managemnt-amendment-act-1991.pdf>.

outstanding water bodies and PC7 also directs that future regional plans include policies that avoid adverse effects that are more than minor on their outstanding values. As the Panel will appreciate, the use of the terms “protect” and “avoid” create a very high bar in respect of planning interpretation and application. This is particularly problematic in this case as these values have not been adequately described. This creates considerable uncertainty to users of the relevant water bodies.

Recognition of existing use values

38. In adequately assessing the costs and benefits of scheduling water bodies as outstanding, I consider that it is important to consider the existing economic and consumptive use values, particularly in light of the Council's section 32 obligations, which require the economic and social benefits and costs to be evaluated.

39. The Section 42A report states that:⁶

The NPSFM, and [Plan] Change 7, does not seek to enhance characteristics of a water body so that values of that water body become outstanding, or to improve them further if they are already outstanding. The purpose of the provisions is to protect outstanding values as they currently exist.

40. As I have discussed above, I question whether some of the water bodies that have been identified are truly outstanding. The costs in broadly or inappropriately applying this status could be significant and adversely affect landowners or industry in constraining existing activities or future development potential where they operate in and adjacent to these areas.

41. I also note that alongside requiring the protection of the significant values of outstanding waterbodies, the NPSFM 2020 also requires that communities are enabled to provide for their social, economic and cultural wellbeing in a manner consistent with the NPSFM. In that regard, Policy 15 states:

Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

42. In my opinion, acknowledging existing economic and consumptive use values of water bodies is fundamental to any analysis of the provisions inherent in PC7. On

⁶ At paragraph 228.

that basis, the effects on existing economic and consumptive uses should be a key consideration of a robust section 32 evaluation.

Section 32AA

43. Section 32AA, requires that:

Requirements for undertaking and publishing further evaluations

- (1) A further evaluation required under this Act—
 - (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
 - (b) must be undertaken in accordance with section 32(1) to (4); and
 - (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
 - (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
- (3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

44. In my opinion, the recommendation of the section 42A officers for the Hearing Panel to adopt a screening framework to ultimately decide if water bodies have outstanding values has not been adequately evaluated under section 32AA. Regardless, in my view, the screening framework recommended by the s42A officers should have formed part of the notified proposal and have been subjected

to evaluation under section 32. If the information derived from the screening framework is necessary to inform the classification of values of the water bodies as outstanding, in my view, this information is material to the public's consideration of PC7.

45. I consider that PC7 should be withdrawn, and the screening framework applied prior to notification and subjected to a robust section 32 evaluation, such that parties can make fully informed submissions as to the implications of what is being proposed. In my opinion, this approach would be more aligned with the obligations inherent in section 32 than the approach recommended by the section 42A reporting officer.

CONCLUSION

46. Outstanding water bodies within the Hawke's Bay Region should be truly "the best of the best" and of a limited class. I consider that the Hawke's Bay Regional Council has not properly discharged its obligations set out in section 32 of the RMA in preparing PC7. PC7 should therefore be withdrawn and re-notified following a robust section 32 evaluation. Any section 32 analysis should consider the economic and consumptive use values and associated costs on these uses when determining whether or not to identify the water bodies as "outstanding" and in the formation of any provisions associated with the water bodies.

ETHAN JOHN GLOVER

13 November 2020