

Greater Heretaunga and Ahuriri (TANK) Collaborative Stakeholder Group Terms of Reference

as updated October 2014 and April 2016

1. Purpose

This document updates the TANK Group's Terms of Reference which were adopted in 2012 to reflect the extension of the project timeframe through to 2017.

The purpose of this document is to describe and update the Context, Role and Operating Procedures for a Collaborative Stakeholder Group (the TANK Group).

The TANK Group has been convened to provide recommendations to the Regional Planning Committee for the management of land and water in the Greater Heretaunga and Ahuriri catchment area, comprising the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments and associated estuarine and coastal receiving environments.

The TANK Group will identify values, and recommend objectives, policies, rules and other methods to be included in the Regional Resource Management Plan (RRMP) to provide for those values. This area, including the coastal environments, will be colloquially referred to as the TANK catchments.

2. Study Area – TANK catchments

The study area is shown in Appendix 1. The key reason for the extent of the study area is the interconnectedness of the Heretaunga Plains aquifer systems with the surface water catchments – Karamu, Ngaruroro, Tutaekuri and Tutaekuri-Waimate, Ahuriri and the Taipo and Napier urban waterways. Some areas are more connected than others. The area will be broken down into manageable hydrological units which take into account the need to integrate the groundwater resource.

3. Key Drivers

There are some 3600 current consents in the TANK catchment area representing approximately half of the region's consented activity. Of these, some 2500 (approx. 70%) relate to the taking and use of surface water and groundwater. The bulk of the Ngaruroro and Maraekakaho takes expired in 2015, and the majority of the Tutaekuri consents expire in 2018. The majority of the groundwater takes from the Heretaunga Plains unconfined aquifer expire in 2019. The Karamu catchment consents expired in 2013.

The Ngaruroro catchment is at full allocation and the Karamu catchment is currently considered to be over allocated, largely by virtue of the Regional Resource Management Plan setting zero allocation limits. Issues have also been raised about the methodology for setting the minimum flows in the current plan. The minimum flows need to be reviewed.

In addition, the National Policy Statement for Freshwater Management (NPS), originally released in 2011, subsequently revised and came into effect in 1 August 2014, requires regional councils to set freshwater objectives, water allocation limits and water quality targets for every water body, so that overall quality of fresh water in the region is maintained or improved. There are no allocation limits in the RRMP for the Heretaunga Plains aquifer systems and the RRMP only contains water quality guidelines.

Council has given the assurance that it will provide clearer policy direction for upcoming consent processes for both applicants and submitters alike.

4. Planning Context

The planning framework within which the TANK Group is to function includes a variety of legislative requirements and both statutory planning instruments and non-statutory processes and documents as shown in Figure 1. A detailed explanation of the planning framework is provided in Appendix 2. As well as these, the TANK Group should also take into account the principles of the Treaty of Waitangi, iwi and hapū planning documents, and other agency and industry strategies. A list of relevant supporting documents will be provided to and discussed with the TANK Group as the collaborative process evolves.

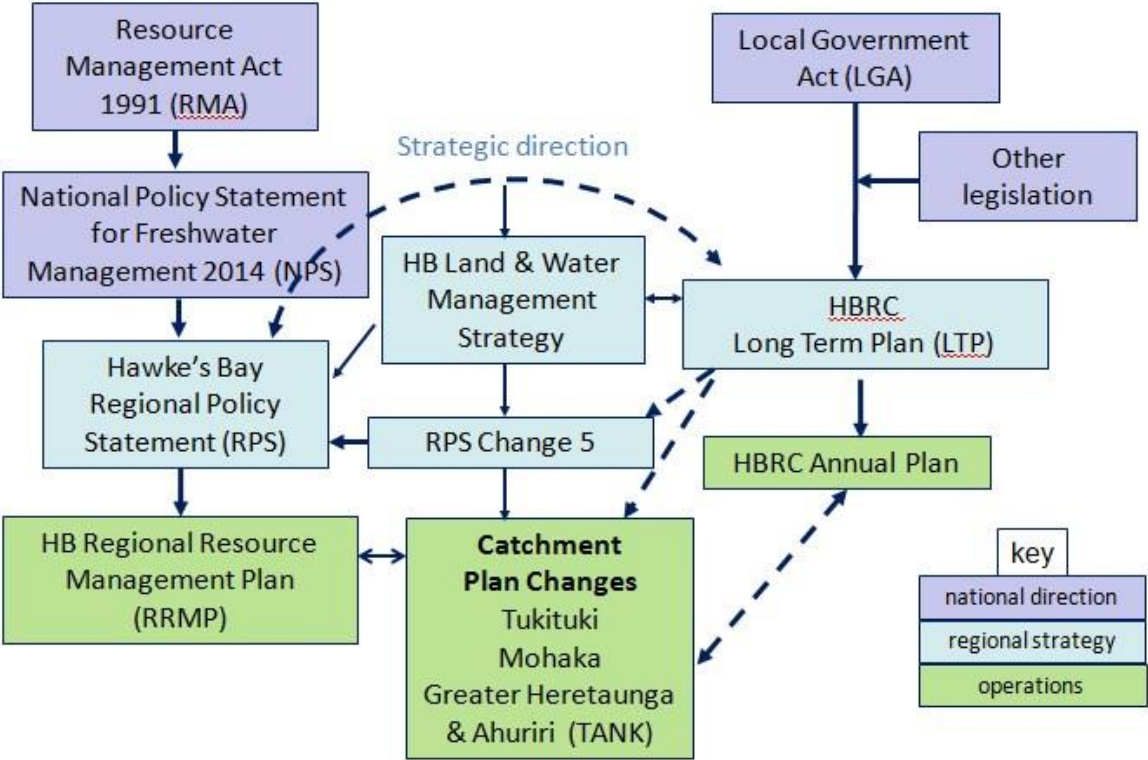


Figure 1 Greater Heretaunga and Ahuriri Plan Change planning framework

5. Role of the TANK Group

The TANK Group is undertaking a collaborative stakeholder process with the aim of providing the Council (via the Regional Planning Committee) with consensus recommendations regarding objectives, policies and methods, including rules for a plan change to the RRMP for the Greater Heretaunga and Ahuriri catchment area. To provide those recommendations, the TANK Group does not start from a blank canvas, nor operate in a silo as outlined in Section 4, Planning Context.

The Regional Planning Committee has agreed to have particular regard to any TANK consensus outcome, if one emerges¹, and the Regional Council has given a good faith undertaking to implement the recommendations of the TANK Group². Any recommendations must also be consistent with the following higher level documents:

- Resource Management Act
- National Policy Statements
- National Environmental Standards
- Regional Policy Statement

6. Membership and relationships

All members of the TANK Group have been nominated by their respective sector or group to be their representative and as such are expected to convey ideas and perspectives from their wider networks. However, the views expressed by members will be assumed to be their own until such time as they have been formally endorsed by their wider networks. A subsequent process, with a reasonable timeframe (to be decided by the TANK Group), will be required to get formal endorsement.

The TANK Group will adopt measures and processes to ensure that local iwi/hapū, community and TANK sectors and groups are informed and have opportunity for input and provide comment on the work of the Group. This includes through the establishment, as necessary, of working groups or communication strategies that provide regular updates about TANK Group outputs and provide opportunities for community and stakeholder feedback.

Some important points to remember about being a TANK Group member:

- A meeting allowance will be available for those who are not paid representatives for a particular interest.
- Members are expected to make every effort to attend all meetings. Between sessions, members will be expected to interact with their wider networks to obtain feedback on policy options.
- The Group has been working together for an extended period and a further two years is required to complete the decision making and produce a draft plan change. A commitment to regular attendance will be critical for continuity and consistency for this time. Substitutes (temporary) and replacements (permanent) are therefore discouraged. Any

¹ Regional Planning Committee Resolution, 19 February 2014.

² Regional Council Resolution, 29 August 2012

substitute or replacement must be pre-agreed with the Independent Facilitator and must be well briefed by the member they are replacing in advance of the meeting.

- If a meeting is missed, or if a substitute does participate, members will be expected to “catch up” and to raise any concerns arising from that meeting with the Independent Facilitator no later than the next meeting.
 - Time will not generally be provided within subsequent meetings to re-visit issues already addressed or resolved in the missed meeting unless new and relevant information is provided. Re-visitation of issues will be at the discretion of the Independent Facilitator.

7. Protocol for collaborative deliberation

This process is not just another consultation exercise – it is a new way of decision-making. Rather than simply advocating for a particular point of view, participants will be expected to explore, consider and deliberate on solutions that accommodate diverse views and interests, and to refrain from tactics that are divisive.

The protocol includes matters relating to respect, communication and consensus decision making:

Respect and Communication

- Members must be willing to participate cooperatively for the “greater good” of sustainable water resource management in the TANK catchments.
- All members agree to act in good faith. This means that members must commit to open, honest, constructive, robust and collaborative deliberations. To this end, we will follow the Chatham House Rule. This means that participants are free to discuss aspects of the process with other parties (excluding debating issues through media channels, see point below) but shall not attribute speakers or their affiliations to discussed options or opinions.
- TANK Group meetings are not open to the public; however Meeting Records and the list of participants will be made public.
- Contributions made within the Group will be “without prejudice”. That is, nothing said within the Group may be used in a subsequent planning or legal process except for any recommendations and agreements reached by the Group.
- Members agree to refrain from debating issues through public media channels and to keep the debate within the TANK Group.
- Members agree to show restraint and respect for other views when communicating with wider networks and to avoid promoting discord within the group.
- Any public statement about discussions or decisions by the group must be agreed by the group and made through an agreed spokesperson. This also applies to researchers, council staff and others who attend the meetings in support of the TANK Group.

The Group may add to this protocol by unanimous decision making. Any agreed additions are collated and appended to the Terms of Reference as an addendum.

Consensus decision making

- The group will strive to make decisions by consensus. Consensus is defined as every member (i.e. 100%) of the group agreeing that they accept the group’s recommendations to Council.

- At the end of the process, members and their networks will be asked to formally endorse and sign any recommendations that have been reached by consensus.
- Where 100% consensus cannot be reached on a topic or specific point, the reasons for disagreement will be noted, any alternatives defined, and the reasons for positions on the alternatives recorded.
- If the group reaches a consensus, members will be expected to support that consensus in subsequent public discussion, including appearing at any subsequent hearing if requested.

8. Council and Council staff roles

The HBRC, through its Regional Planning Committee, has established and is resourcing and supporting a collaborative approach to reaching broad agreement on, and developing recommendations for future water management by the TANK Group.

HBRC staff will be assigned to assist and support the TANK Group in delivering the required outputs within the agreed timeframes.

Members of the Regional Planning Committee, both councillors and tangata whenua representatives, may attend TANK meetings as observers with speaking rights. For clarity, members of the Regional Planning Committee are not to take part in TANK Group decision making to ensure a clear separation, both actual and perceived, between statutory governance and the advisory role of the TANK group.

The TANK Group will regularly update the RPC about its work. This update will coincide with scheduled RPC meetings and may also include special meetings if necessary. The TANK Group does not have the authority to commit the Council to any path or expenditure.

Officers from the Napier City and Hastings District Councils have been appointed to the TANK Group to represent the interests of these local authorities.

9. Role of facilitator

Most meetings of the TANK Group will be led by an independent facilitator, who will:

- Ensure a fair and equitable group process
- Foster an atmosphere of respect, open-mindedness and group learning
- Design an enjoyable and productive process to enable the group to achieve its task
- Facilitate input from all members of the group, so that every voice is heard
- Provide guidance on collaborative deliberation techniques, including constructive ways to voice disagreements and negotiate potential conflicts.
- Manage discussion and decision making processes in a way that assists with meeting the objectives for each meeting within the agreed timeframes and according to agreed protocols.
- Support as necessary, operation of any working group formed by the TANK group to assist the Group in its decision making.

10. Work Programme

The TANK Group will adopt a Work Programme with agreed timeframes required to deliver the outcomes specified. The Work Programme will be regularly reviewed and progress reported to the RPC.

There are four main phases for this project (Phase 1 has been completed) and the TANK Group will be involved in all four phases.

Phase 1 (completed)

Identification of values, objectives, and general agreements on approaches for developing policy options for a plan change.

Output: a document detailing interim agreements and any areas where agreement could not be reached, for presentation to the Regional Council's Regional Planning Committee.

The TANK Group held 11 meetings between October 2012 and December 2013 and reached interim agreement on a number of topics. These are captured in the report *Collaborative decision making for freshwater resources in the Greater Heretaunga and Ahuriri Region: TANK Group Report 1 – Interim Agreements ("Phase 1 - TANK report")*. These 11 meetings and the TANK Report will be referred to as "Phase 1" of the TANK process.

The interim agreements in the Phase 1 - TANK Report are "supported in principle" by most parties but not all. The areas of disagreement will be addressed in the early stages of Phase 2 of the TANK Group process.

Phase 1 - TANK Report will be used as a foundation document for progressing through Phases 2 and 3 of the TANK process (outlined below).

Phase 2

Building on and, where necessary, amending Phase 1 Interim Agreements to develop and evaluate policy options including determining appropriate limits/thresholds (quantity and quality) and/or methods for setting them. This phase will require further assessment of subcatchment level values and objectives.

Outputs: agreement on objectives, attributes and desired attribute states for identified water bodies or groups of water bodies in relation to the identified agreed values for which the water bodies are to be managed.

Agreement on the policies and methods that will be used to achieve the stated objectives for each water body or group of water bodies and identification of alternatives on any areas where agreement could not be reached, for presentation to Council's Regional Planning Committee.

Phase 3

Plan Change writing to incorporate any preferred/agreed policy response arising out of Phases 1 and 2 into the Regional Resource Management Plan. During Phase 3, the TANK Group will meet as required to make further recommendations on issues that arise during drafting of the plan change.

Public consultation on a draft plan change may be undertaken in partnership with the RPC, ahead of formal notification, if deemed a necessary supplement to the public and hapū/whanau engagement programme.

Outputs: a draft Plan Change ready for consideration and approval by the Regional Planning Committee by end of 2017 and a report on the TANK process (to inform Council's section 32 RMA evaluation report).

Phase 4

Consideration of the proposed plan change by RPC and subsequent recommendation to the Council for either public or targeted consultation on draft, or should public engagement have been sufficient in phases 2 and 3 then notification by the Council in early 2018.

The RPC may refer matters back to the TANK Group for further advice and/or recommendations prior to recommending a final plan change to the Council for notification.

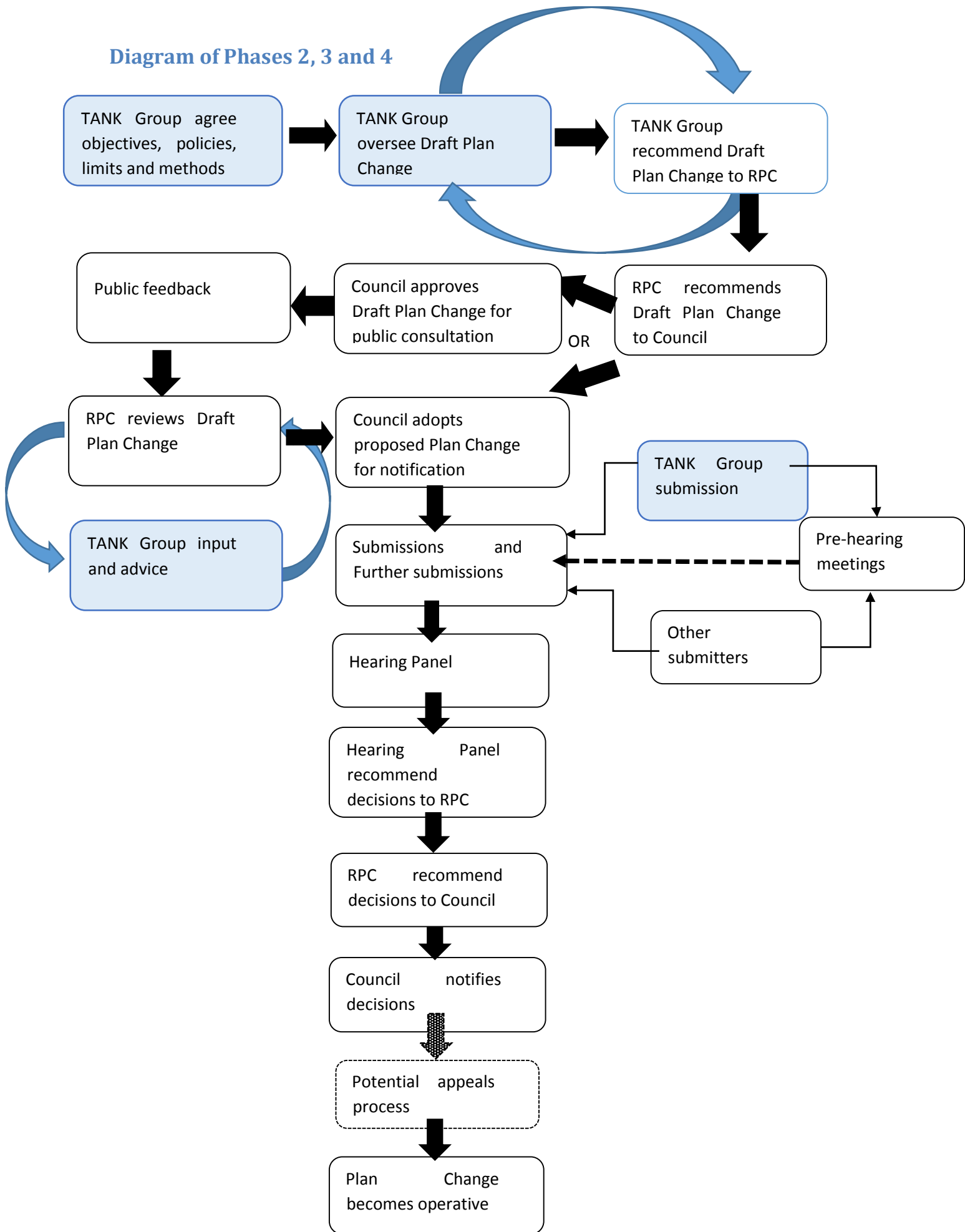
The TANK Group will be encouraged to make a submission on the proposed plan on behalf of the Group and will be assisted in this by Council staff if necessary.

This is to encourage on-going TANK commitment and involvement in any refinements to the plan change, including involvement in hearings and pre-hearing meetings and on-going commitment to plan implementation.

Hearing of submissions will be by the full RPC. (*editorial note: this proposal is amended by the recommendation in the report to RPC 20th April 2016 to a hearing panel consisting 3 councillor and 3 iwi members*). The RPC has been appointed by the Council to hear and make recommendations² on the submissions and further submissions on Proposed Plan Changes and make recommendations to the Council about the decisions to be made.

² The function of approving the Plan Changes under Clause 17 of Schedule 1 of the RMA was not delegated. That function remains with the Council

Diagram of Phases 2, 3 and 4



11. Meeting schedule for TANK Group – Phases 2 & 3

The Tank Group will set the meeting schedule for meetings in Phase 2 and it will then become an attachment to this update (see attachment 3). Near the end of Phase 2, the meeting schedule for Phase 3 will be developed by HBRC's Project Team in consultation with TANK Group members. The schedule will be adapted as necessary to suit the availability of as many Group members as possible.

12. Contact details

Facilitator

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HBRC staff

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Desiree Cull, Programme Leader, ph. 06-833 8037 email Desiree.Cull@hbrc.govt.nz (Project management).

Appendices

Appendix 1: Study Area



Appendix 2: Planning framework

Resource management context

There are numerous documents that set the context and scope of this project – see Figure 1. Looking first at the left side of Figure 1, at a statutory level is the **Resource Management Act 1991 (RMA)**.

The RMA specifies the functions of regional councils with respect to resource management, states the purpose (to promote sustainable management, defined in RMA section 5) and sets some highlevel direction for how this is to be done (e.g. in RMA sections 6-8). (Refer to pp7-8 of slides from Meeting 1.)

The central government can issue national policy statements when it wants to provide direction on how it wants local authorities to carry out their functions. The **National Policy Statement on Freshwater Management (NPS)**, issued in 2014, directs regional councils to, among other things, set allocation limits and water quality targets for every water body, so that overall quality of fresh water in the region is maintained or improved.

HBRC developed the **Hawke's Bay Land & Water Management Strategy (LaWMS)** to provide a strategic overview to all its programmes regarding land and water management. LaWMS is a non-statutory document developed using a stakeholder reference group to set the higher level strategic direction for land and water management in Hawke's Bay. It contains a number of policies and possible actions that should be considered as part of the process for developing specific land and water management policies for the Greater Heretaunga and Ahuriri area. Some aspects of LaWMS are already being further developed through statutory processes such as Plan Change 5 to the Regional Policy and Plan Change 6 for the Tukituki catchment.

To implement the NPS, HBRC is also amending its **Regional Policy Statement (RPS)** to clarify its strategic intent for the region's main catchments (**RPS Change 5**). Although originally a separate document, the RPS now forms the strategic component of the Hawke's Bay **Regional Resource Management Plan (RRMP)**, which contains the more detailed provisions to set allocation limits and water quality targets, in some cases involving rules on land and water use. As at 31 August 2014, Change 5 remains subject to parts of two appeals. Appeals on 'wetland' related provisions are dependent on further ephemeral wetland mapping work. An Environment Court hearing is scheduled for early December regarding RPS objectives for groundwater quality.

Plan Changes to the RRMP are being developed for the seven major catchments in Hawke's Bay with the Tukituki, Mohaka and Greater Heretaunga and Ahuriri (TANK) catchments currently underway (lower green box in Figure 1).

Plan Change 6 for the Tukituki catchment was publicly released by a Board of Inquiry on 26 June 2014 as part of the Tukituki Catchment Proposal. As at August 2014, two appeals have been lodged on the Board of Inquiry's Final Report and Decisions and are due to be managed at the Wellington High Court.

The TANK process for the **Greater Heretaunga and Ahuriri zone** will similarly lead to a plan change to the RRMP and may also recommend other measures that are outside the RRMP structure.

Local government context

This brings us to the right side of Figure 1. The **Local Government Act 2002 (LGA)** describes the role of regional councils more generally; it “provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach”. In giving effect to this mandate, councils have responsibilities under a number of statutes as well as the RMA.

Every three years, each local authority updates its **Long Term Plan (LTP)**, which states its priorities and indicative funding intentions for the next 10 years across all of its responsibilities. Thus, if the council anticipates a significant plan change, roading project or biodiversity initiative, these are signalled in the LTP along with the project cost and how it will be funded. The strategic direction in the LTP should align with that set in the RPS and in non-statutory documents such as the Land & Water Management Strategy. However, because only one of these can be changed at a time (*e.g.* the RPS cannot be amended via the LTP), it tends to be an iterative process of updating these documents over time to keep them aligned.

Funding and action plans are then confirmed annually through the **Annual Plan**, which specifies what projects will get done, the funding provided for each, and the rates that will be collected.

Summary

In summary, this process aims to provide the key content of a new chapter in the RRMP that specifies objectives, targets and limits for the TANK catchments. This must be consistent with the statutory direction in the RMA and NPS, and with the priorities set in the LTP. The Land & Water Management Strategy provides further strategic guidance regarding the broad objectives, and these will be given more focus through the RPS change underway. The priorities set in the RPS and in the Greater Heretaunga and Ahuriri plan change will need to be aligned. Any initiatives that require additional funding will need to be approved through the LTP and Annual Plan processes.

Appendix 3: Meeting Schedule for Phase 2

MEETING	Date
Meeting 19	5 April 2016
Meeting 20	24 May 2016
Meeting 21	28 June 2016
Meeting 22	9 August 2016
Meeting 23	20 September 2016
Meeting 24	2 November 2016
Meeting 25	13 December 2016
Meeting 26	9 February 2017
Meeting 27	22 March 2017
Meeting 28	3 May 2017
Meeting 29	14 June 2017
Meeting 30	26 July 2017
Meeting 31	5 September 2017
Meeting 32	18 October 2017
Meeting 33 (reserve)	22 November 2017

Addendum: TANK Group Operational Protocols

Attendance Protocol (from Meeting 12)

A TANK Group meeting is not a public forum. Any substitutes or visitors must be pre-approved.

Visitors or observers will not have speaking rights (unless this has been pre-arranged for a specific purpose). Visitors and observers must abide by the Group's meeting protocols and engagement etiquette.

Decision Making Protocol (from Meeting 18)

In terms of administrative decisions, those would typically be made by the Project Team or on the basis of a majority vote of those members present at the meeting. In terms of process-related matters, there is no single pre-defined approach but instead on a case-by-case basis, the Group should aim for consensus otherwise a majority vote would apply if striving for consensus was not going to be achievable or not straightforward. In such cases the independent facilitator will decide on the appropriate decision-making method.