

Ruataniwha Water Storage Scheme

Planning Assessment

Prepared For:

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Executive Summary

This report presents a planning assessment of the Ruataniwha Water Storage Scheme (RWS Scheme) in relation to the relevant policy and planning documents prepared under the Resource Management Act 1991 (RMA).

CONSENTS REQUIRED

Comprehensive land use consent applications will be lodged with the Environmental Protection Authority (EPA) for the activities associated with the RWS Scheme within the administrative jurisdiction of each of the Central Hawke's Bay District Council (CHBDC) and Hastings District Council (HDC).

Applications for a total of 15 resource consents will be lodged with the EPA for the activities associated with the RWS Scheme within the administrative jurisdiction of the Hawke's Bay Regional Council (HBRC).

If the bundling approach is applied to the activities for which consents are sought, the overall status of the resource consent applications would be 'discretionary' in each of the three administrative jurisdictions.

CONSENTING APPROACH

The manner in which approval under the RMA is to be sought for the RWS Scheme is as follows:

- A notice of requirement (NOR) will be lodged with the EPS (for activities within the administrative jurisdiction of the CHBDC) for the proposed primary headrace canal and pipelines located within Zones A - D; and
- Resource consent applications will be lodged with the EPS for all other aspects of the RWS Scheme (for activities within the administrative jurisdiction of the CHBDC, HDC, and HBRC) that are not permitted activities or otherwise proposed to be the subject of resource consent applications at a later date.

ANALYSIS OF POLICY AND PLANNING DOCUMENTS

A planning analysis of the RWS Scheme has been undertaken in relation to the relevant policy and planning documents prepared under the RMA (sometimes referred to as 'statutory instruments') that need to be considered as part of the assessment of the resource consent applications and the NOR. The planning analysis is presented in relation to the RWS Scheme as an integrated project (rather than a separate analysis in relation to the applications and NOR).

The RWS Scheme has been assessed in relation to the relevant aspects of the following statutory instruments:

National Policy Statements

- National Policy Statement for Freshwater Management (NPSFM)
- National Policy Statement for Renewable Electricity Generation (NPS REG)
- Proposed National Policy Statement on Indigenous Biodiversity (Proposed NPSIB)
- New Zealand Coastal Policy Statement (NZCPS)

National Environmental Standards / Regulations

- Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007
- Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010



Regional Policy and Planning Documents

- Hawke's Bay Regional Resource Management Plan (RRMP) including:
 - Proposed Change 4 – Managing the Built Environment (PC4)
 - Proposed Change 5 – Land Use and Freshwater Management (PC5)
 - Proposed Change 6 – Tukituki Catchment (PC6)
- Hawke's Bay Regional Coastal Environment Plan (Coastal Plan)

District Plans

- Central Hawke's Bay District Plan (CHBDP)
- Hastings District Plan (HDP)

In addition to the above, the RWS Scheme has also been assessed in relation to a number of other non-statutory resource management documents.

The following provides a brief summary and the key conclusions presented in the Planning Assessment in relation to statutory instruments listed above.

National Policy Statements

The NPSFM is the most relevant NPS to the RWS Scheme. The major thrust of the NPSFM is the setting of limits on both water quality and quantity that reflect national and local values. The way in which the NPSFM is to be implemented is through the provisions of regional plans. PC6 (discussed below) sets out the planning provisions intended to implement the NPSFM in the Tukituki catchment within which the RWS Scheme is proposed.

The NPS REG recognises the national significance of renewable electricity generation activities. The proposed generation of hydro-electricity as part of the RWS Scheme is entirely consistent with the outcomes sought to be achieved by the NPS REG.

The Proposed NPSIB is intended to provide clearer direction to local authorities on their responsibilities for managing indigenous biodiversity under the RMA. It seeks to promote the maintenance of indigenous biodiversity while recognising the rights and responsibilities of landowners and the interests of Maori.

As the proposed NPSIB has not yet been finalised and gazetted it has no legal effect other than as a potentially relevant matter under s.104(1)(c) of the RMA. However, HBRIC has anticipated the likely effect of the proposed NPSIB, particularly in relation to indigenous biodiversity associated with the Makaroro River and its environs where the Makaroro Dam and reservoir are proposed. Specifically, the report 'Ruataniwha Water Storage Project: Proposed Integrated Mitigation and Offset Approach' (HBRIC (May 2013f)) sets out the way in which the residual biophysical effects (e.g. effects on terrestrial and aquatic ecology) are addressed around the dam/reservoir area and downstream to the intake site, that are not practicably able to otherwise be avoided, remedied, or mitigated directly or entirely.

The proposed beach nourishment is consistent with the relevant objectives and policies in the NZCPS, which include promoting the restoration or rehabilitation of the natural character of the coastal environment and which can include restoring and protecting riparian and intertidal margins.

National Environmental Standards / Regulations

The RWS Scheme will be consistent with all relevant National Environmental Standards / Regulations. None of the resource consent applications associated with the RWS Scheme are triggered by the relevant National Environmental Standards / Regulations.



The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 have been complied with as part of the proposed conditions (Part D – Proposed Conditions).

Regional Policy and Planning Documents

The RRMP is a combined regional policy statement (RPS) and a regional plan. It sets out a wide range of objectives, policies and methods (mainly rules) in relation to the management of natural and physical resources within the jurisdiction of the HBRC.

PC5 proposes to introduce new provisions relating to the integrated management of water and land into the RPS parts of the RRMP. The provisions of PC5 are of particular relevance to the RWS Scheme as they set out the overarching approach to the integrated management of water and land resources with a focus on a catchment based approach including specifically in relation to the Tukituki River catchment. Water storage and the use of that water for maintaining or enhancing land-based primary production are explicitly recognised and provided for as part of the relevant objectives and policies in PC5.

Given the nature of the proposed activities comprising the RWS Scheme, PC6 is the key planning document which is central to the assessment and determination of the resource consent applications within the administrative jurisdiction of the HBRC. PC6 inserts new sections in Chapters 5 (5.9) and 6 (6.9) of the RRMP relating to the Tukituki River catchment within which the RWS Scheme is proposed to be located. It is the first of a number of catchment specific plan changes for the Hawke's Bay Region which seek to implement the NPSFM, as well as address specific water allocation and water quality issues in the catchment.

The objectives in PC6 put in place a strong policy regime seeking to sustainably manage the fresh water resources within the Tukituki River catchment in accordance with the NPSFM. One of the objectives in PC6 is to enable Community Irrigation Schemes such as the proposed RWS Scheme, subject to the outcomes in other objectives being achieved.

PC6 sets out 15 policies which specify the manner in which the objectives for the Tukituki River catchment are to be achieved. Of relevance to the RWS Scheme, this includes the setting of limits and targets in relation to nitrate-nitrogen, dissolved reactive phosphorus, and periphyton biomass, and *Escherichia coli*. The policies also identify environmental state indicators¹ for the Macroinvertebrate Community Index (MCI) and Visual Water Clarity and Deposited Sediment.

Of particular relevance the RWS Scheme, one of the policies in PC6 is to enable takes of water for Community Irrigation Schemes capable of providing irrigation water to at least 5,000 hectares of production land provided that the management of the take and the management of the Scheme addresses a range of specified matters. PC6 also includes a policy which sets out the criteria for considering an application for the use of production land on multiple properties associated with the operation of a Community Irrigation Scheme.

The manner in which the RWS Scheme addresses the requirements set out in the objectives and policies in PC6 is the subject matter of a number of technical reports appended to the AEE and summarised in the AEE. In this regard, the key aspects of the RWS Scheme which are intended to address the objectives and policies in PC6 are as follows:

¹ "Indicators" define what the state of certain water quality parameters should be in order to safeguard the life supporting capacity of the water body but they are not "limits" or "targets". The "indicators" stated will be used by Hawke's Bay Regional Council to monitor the effectiveness of the RRMP in achieving the purpose of the RMA in the Tukituki River catchment.



- A proposed flow management regime (described in the Project Description) which includes a minimum flow out of the Makaroro Dam and flushing flows which will result in a more consistent flow of water in the rivers downstream of the dam and an improvement in the water quality (including reducing the incidence of periphyton biomass).
- Reservoir water quality monitoring.
- The management of uses of land authorised by the consents in a manner that:
 - does not cause specified in-river nitrate-nitrogen concentration limits to be exceeded at any of the specified monitoring locations;
 - does not cause a net increase of Dissolved Reactive Phosphorous (DRP) reaching waterways compared to the existing land use position as at 6 May 2013 modelled as the Current Land Use Scenario in the NIWA TRIM 2 Modelling Report; and
 - does not cause the water quality limits for E.coli in surface and groundwater specified in PC6 to be exceeded.
- The preparation of:
 - a Groundwater Monitoring Plan (GMP);
 - an Irrigation Environmental Management Plan (IEMP);
 - a Farm Environmental Management Plan (FEMP); and
 - an On-Farm Monitoring Plan.
- Farm Environmental Management Plan Audits.
- Contractual arrangements between the consent holder and recipients of water from the RWS Scheme.

The key outcomes to be achieved in accordance with the objectives and policies in PC6 are also the subject of proposed consent conditions (see Part D – Proposed Conditions).

The Coastal Plan is relevant to the proposed beach nourishment to the north and south of the mouth of the Tukituki River. The proposed beach nourishment will be undertaken in a manner which is consistent with the relevant guideline the Coastal Plan relating to the deposition of material within the Coastal Marine Area.

District Plans

The RWS Scheme will be located within the Rural Zones in the CHBDP and the HDP.

The CHBDP and the HDP both provide for the development and operation of utilities / network utilities. The inclusion of hydro-electricity generation as part of the proposal means that the Makaroro Dam and the associated reservoir (to the extent the latter is within the Central Hawke's Bay District) fall outside of the definition of 'utility' in the CHBDP. However, most of the other aspects of the RWS Scheme are utilities for the purposes of the CHBDP. The part of the reservoir in the Hastings District is a type of 'network utility' in the HDP.

The RWS Scheme has been developed and advanced in a manner which is consistent with the objectives and policies in the CHBDP and the HDP relating to utilities / network utilities and the Rural Zones in which the RWS Scheme is proposed to be located.

The storage and use of hazardous substances is an aspect of the RWS Scheme that gives rise to the need for a resource consent within the administrative jurisdiction of CHBDC. The management of hazardous substances is addressed in the Draft Construction Environmental Management Plan (CEMP) (see



Appendix C of the Project Description) in a manner which is consistent with the objective and policies in the CHBDP.

Similarly, the management of earthworks and other environmental effects associated with construction activities are addressed in the CEMP. The proposed conditions of consent (Part D – Proposed Conditions) require that the consent holder complies with the CEMP at all times.

Finally, the farming activities, including land use change and/or intensification, facilitated by the RWS Scheme (undertaken by third parties) are provided for as permitted activities in the CHBDP and the HDP, in which case it can be inferred that those activities are consistent with the relevant objectives and policies in the district plans.

Overall, it is concluded that the RWS Scheme is consistent with the relevant objectives and policies in the statutory instruments that are relevant to the notice of requirement and the resource consent applications.

PART 2 OF THE RMA

The promotion of sustainable management requires an overall broad judgement of whether a proposal will meet the requirements of section 5(2) of the RMA.

The RWS Scheme will enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety by the provision of water (primarily for irrigation) that will facilitate an increase in the productive potential of their land. It will also involve the generation of electricity from a renewable source and create employment and associated economic activity.

The removal and/or inundation of areas of significant indigenous vegetation and significant habitats of indigenous fauna is an adverse effect of the RWS Scheme that is inconsistent with section 6(c) of the RMA. However, offset mitigation measures are proposed to address this effect. Other actual and/or potential adverse effects on the environment will be avoided, remedied or mitigated by the imposition of appropriate conditions of consent.

In conclusion, it is considered that the RWS Scheme is consistent with the purpose and principles of the RMA.



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REPORT INFORMATION		
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1 INTRODUCTION

1.1 PURPOSE OF THIS REPORT

The Hawke's Bay Regional Investment Company Limited (HBRIC Ltd) is proposing to seek approval for the Ruataniwha Water Storage Scheme (RWS Scheme) under the Resource Management Act 1991 (RMA).

The purpose of this report is to undertake a planning assessment to identify the various resource consents that would be required for the RWS Scheme under the relevant district and regional planning documents. A proposed approach is advanced in terms of manner in which approval under the RMA is to be sought for the RWS Scheme (being a combination of a notice of requirement and resource consent applications).

The report also provides a planning analysis of the RWS Scheme in relation to the relevant policy and planning documents prepared under the RMA that need to be considered as part of the assessment of the resource consent applications and the notice of requirement. This includes a change to the Hawke's Bay Regional Resource Management Plan being advanced in parallel with the RWS Scheme which seeks to implement the National Policy Statement for Freshwater Management as well as address specific water allocation and water quality issues in the Tukituki River catchment.

1.2 REPORT STRUCTURE

The structure of this report is as follows:

- Section 2 provides a brief description of the key elements of the RWS Scheme;
- Section 3 discusses the rules in the relevant plans prepared under the RMA and identifies the RMA status of the activities associated with the RWS Scheme including the need for resource consent applications.
- Section 4 describes the proposed approach in terms of manner in which approval under the RMA is to be sought for the RWS Scheme (being a combination of a notice of requirement and resource consent applications).
- Section 5 sets out the matters specified in the RMA that a consent authority must have regard to when considering applications for resource consents and notices of requirement.
- Section 6 provides a planning analysis of the RWS Scheme in relation to the relevant policy and planning documents prepared under the RMA that need to be considered as part of the assessment of the resource consent applications and the notice of requirement.
- Section 7 presents an analysis of the RWS Scheme in relation to Part 2 of the RMA.
- Section 8 presents an overall conclusion.



2 PROPOSED RWS SCHEME

A comprehensive description of the RWS Scheme is set out in the 'Project Description' prepared by Tonkin & Taylor Ltd dated May 2013. This Planning Assessment needs to be read in conjunction with the Project Description. The key elements of the RWS Scheme are summarised as follows:

- Construction of an in-stream dam in the upper reaches of the Makaroro River to store approximately 90 million m³ of water to provide a water supply primarily for irrigation purposes;
- The dam will include a small hydro-electric power station and associated transmission infrastructure (i.e. a transformer adjacent to the power station and a 33kV transmission line connecting to the existing Ongaonga Substation);
- Water will be released from the dam into the Makaroro River via control structures;
- Water will flow downstream from the dam within the river channel (i.e. the Makaroro and Waipawa Rivers will be used to convey the controlled flow releases of water from the dam);
- Water will be taken from two intake structures on the Waipawa River below its confluence with the Makaroro River (at different locations);
- Water would generally be transferred from the points of take on the Waipawa River to the production land areas via a combination of open channel headraces, siphons (for river and stream crossings), and underground pipelines (water distribution network);
- The establishment of the water distribution network would require cut and fill earthworks and embankment fills and culverting where they cross local gullies;
- Water outfall structures will discharge water from the water distribution network into a tributary of the Mangaonuku Stream (which will then flow downstream back into the Waipawa River) and a farm watercourse / drain connecting to the Kahahakuri Stream (which will then flow downstream into the Tukituki River);
- Use of water within production land areas referred to as Zones A - D and M and by existing irrigation consent holders outside those areas; and
- Potential intensification of land use activities in the production land areas (by third parties) associated with the increase in irrigation made possible by the RWS Scheme.

An Overview Plan of Ruataniwha Water Storage Scheme showing the location of the proposed dam, water intakes and water outfall structures, headraces and primary pipelines, and irrigation zones is presented in Appendix A of this report.



3 RMA PLANNING AND REGULATORY ENVIRONMENT

The following identifies the relevant jurisdictions, plans, and rules under the RMA and identifies the status of the activities associated with the RWS Scheme including the need for resource consent applications.

3.1 DISTRICT COUNCILS

The activities associated with the RWS Scheme are located in the Central Hawke's Bay District and the Hastings District. Plan 1 – Overview Plan in Appendix A shows the location of the key activities associated with the RWS Scheme in relation to the boundary between the two districts.

Under the RMA the Central Hawke's Bay District Council (CHBDC) and the Hastings District Council (HDC) have jurisdiction for the control of land uses within the Central Hawke's Bay and Hastings Districts respectively.

The following sections summarise the activities associated with the RWS Scheme within each district and identify the land use status of those activities as determined by the relevant district plans prepared under the RMA.

3.2 RMA STATUS OF ACTIVITIES IN THE CENTRAL HAWKE'S BAY DISTRICT

The activities associated with the RWS Scheme within the Central Hawke's Bay District (within the jurisdiction of the CHBDC) are as follows:

- The proposed Makaroro Dam (and associated structures) and the majority of the reservoir;
- Electricity generation and transmission (and associated infrastructure);
- Water distribution network infrastructure for the supply of water (primarily for irrigation purposes), including intake and outfall structures, open headrace canals and pipelines;
- The irrigation of production land areas facilitating farming activities undertaken by third parties (including any changes or intensification of land use); and
- Land disturbance/earthworks, vegetation removal, quarrying, concrete batching, the storage and use of hazardous substances, the creation of access roads and tracks, riparian planting, and other works and activities associated with the construction of the above.

The RMA status of the above land use activities within the Central Hawke's Bay District is determined by reference to the Central Hawke's Bay District Plan (CHBDP) that was made operative on 1 May 2003. There are no proposed District Plan Changes that are relevant to the proposed activities.

3.2.1 PROPOSED MAKARORO DAM AND RESERVOIR

The proposed dam site and the majority of the reservoir (to the extent it is located within the Central Hawkes Bay District) is located within the Rural Zone of the CHBDP (see Planning Map 1 in Appendix B).

Planning Map 1 shows that an Area of Significant Nature Conservation Value (Site 18) is located alongside the Makaroro River within the reservoir that will be formed by the construction of the Makaroro Dam. Site 18 is identified in Appendix D of the CHBDP as the "Bush margin – Makaroro River", owned by the Crown (in this case administered by the Department of Conservation). The need



for a consent (referred to as a concession) from the Department of Conservation is discussed in Section 3.8 of this report.

3.2.2 INTAKE AND OUTFALL STRUCTURES

The proposed Upstream Water Intake on the Waipawa River is located within the Rural Zone as shown on Planning Map 4 (presented in Appendix B) in an area identified as a “Floodable Area”. The Downstream Water Intake is located within the Rural Zone as shown on Planning Map 9 (presented in Appendix B). The Waipawa River, where both the river intakes are proposed, is identified as an “Area of Significant Nature Conservation Value” (Site 16).

The proposed Upstream Water Intakes would be located close to the CHBDC’s “Argyll Water Race Intake” located on the northern side of the Waipawa River, near Makaroro Road, which is identified as Designation Site 2 on Planning Map 4. It is noted that the CHBDC’s “Lindsay Water Race Intake” is located approximately 3 kilometres upstream of the proposed Upstream Water Intake, on the southern side of the Waipawa River.

The proposed outfall structures on a tributary to the Mangaonuku Stream and a farm watercourse / drain connecting to the Kahahakuri Stream are within the Rural Zone as shown on Planning Map 8 (presented in Appendix B).

3.2.3 PRODUCTION LAND AREAS

The production land areas are covered by the following Planning Maps (which are presented in Appendix B):

- Zone A – Planning Maps 2, 4, 8 and 22
- Zone B – Planning Maps 4, 8 and 23
- Zone C – Planning Maps 8 and 12
- Zone D – Planning Map 12, 35 and 36
- Zone M – Planning Maps 5 and 9

There are a number of features shown on the above planning maps. For the purposes of the RWS Scheme, the following areas noted on the planning maps do not form part of the Consent Application Areas relating to the production land areas:

- Urban areas (i.e. areas zoned ‘Township Zone’);
- Areas of Significant Nature Conservation Value;
- Heritage Items;
- Sites of Cultural Significance to Tangata Whenua;
- Land the subject of a designation (including all public roads); and
- Community Facilities.

Discussions with CHBDC Planning Staff reveal that three of the Sites of Cultural Significance to Tangata Whenua (237, 238 and 239) are not shown in the correct locations on Planning Map 4. In light of this new information, although not strictly relevant to consent status, an assessment has been undertaken as to whether any of these sites will be affected by the RWS Scheme. While the headrace on the northern side of Makaroro Road is relatively close to two of these sites (which are on the opposite side of the road), none of the RWS Scheme infrastructure will directly affect any Sites of Cultural Significance to Tangata Whenua (both in terms of what is shown on Planning Map 4 and the new information as to their actual location). As noted above, any Sites of Cultural Significance to Tangata Whenua are also excluded from the Consent Application Area for irrigation activities.



3.3 RESOURCE CONSENTS REQUIRED FROM CENTRAL HAWKE'S BAY DISTRICT COUNCIL

The Utilities Section of the CHBDP is the logical starting point for the assessment of resource consents required from the CHBDC for the RWS Scheme given the nature of the activities proposed.

3.3.1 DEFINITION OF 'UTILITY'

The definition of 'Utility;' in the CHBDP is as follows (with aspects relevant to the RWS Scheme underlined):

Utility means:

- a lines and necessary incidental structures and equipment for the transmission and distribution of electricity;*
 - b pipes and necessary incidental structures and equipment for transmitting and distributing gas;*
 - c storage facilities, pipes and structures and equipment necessary for the supply, drainage and treatment of water or sewage;*
 - d water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment;*
 - e structures, facilities, plant and equipment for the treatment of water;*
 - f devices such as dishes, antennas, wires, cables, casing, tunnels, and associated equipment and support structures and equipment shelters, such as towers, masts and poles, and equipment buildings and telephone boxes, used for the transmitting, emission or receiving of telecommunications and radiocommunications;*
 - g structures, facilities, plant, equipment and associated works for monitoring and observation of weather and natural hazards;*
 - h structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards;*
 - i structures, facilities, plant and equipment necessary for navigation by water or air;*
 - j wells, structures, plant and equipment necessary for the exploration and production of petroleum oil and gas, including pipes and necessary incidental structures and equipment for transporting oil and gas away for refining.*
- Utility does not include structures or facilities used for electricity generation.*

The last line of the above definition gives rise to issues of interpretation. A narrow interpretation could be that it only applies to structures and facilities that actually generate electricity (i.e. the power house and turbines/generators), whereas a broader interpretation would mean that any structure or facility used in any way as part of the process of generating electricity is caught by this clause (despite the generation of electricity being a minor or incidental component of a proposal which is otherwise squarely within the definition of 'utility', as is the case with the RWS Scheme). The incidental nature of any proposed electricity generation produces some outcomes which may have been unintended and which are counterintuitive (e.g. the proposed Makaroro Dam and reservoir, which are clearly within the ambit of item c in the above definition, are not classified as a utility because of the incidental use of the Dam structure for the generation of electricity).

On the basis of a wide (and cautious) interpretation, the following sets out the rules in the CHBDP relating to utilities to provide a full understanding of the rule framework (and the classification of activities defined as utilities), followed by the rules in the Rural Zone of the CHBDP which, on the basis of the above interpretation of the definition of 'utilities', are applicable to aspects of the proposed RWS Scheme.

3.3.2 RULES IN THE UTILITIES SECTION OF THE CHBDP

Of relevance to the RWS Scheme, the Utilities Section of the CHBDP identifies the following as permitted activities:



10.4.1 PERMITTED ACTIVITIES

The following activities shall be **Permitted Activities** throughout the District except as provided for as **Controlled Activities** under Rule 10.4.2 or as **Discretionary Activities** under Rule 10.4.3, and subject to compliance with the **Performance Standards** below:

- (a) (i) Lines for conveying electricity at a voltage up to and including 110KV with a capacity up to and including 100MVA per circuit;
- (ii) Lines for conveying telecommunication signals; and,
- (iii) Poles, insulator, casing, minor fixture, tunnel, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any line, or part of line identified in (i) and (ii) above.
For the purposes of Rule 10.4.1 (a) "Line" means a wire or wires or a conductor of any other kind.
- (b) (i) Transformers used for conveying electricity at a voltage up to and including 110KV with a capacity up to and including 100MVA, and which do not contain more than 1000 litres of oil.
- (ii) Electricity Substations used for conveying electricity at a voltage up to and including 110KV with a capacity up to and including 100MVA, and which do not contain more than 1000 litres of oil, provided that any buildings for a substation comply with Rule 10.4.1 (f).
(For the purposes of this Plan where a transformer or electricity substation exceeds 1000 litres of oil then Section 13, Hazardous Substances Rules, shall apply)
- ...
- (d) Antennas, or dish antennas used for telecommunication and radiocommunication purposes and shall include associated support structures including towers, masts and poles;
- ...
- (f) Buildings used for utility activities provided that the building(s) do not exceed the following:
- i 15m² in gross floor area and 3.5m in height in the Residential and Township Zones;
- ii 50m² in gross floor area and 5.0m in height in the Rural or Business Zones.
For the purpose of rule 10.4.1 (f) a building:
- shall not include antennas, dish antennas, overhead lines, or their support structures.
 - is subject to the setback from neighbours and road performance standards and the recession line performance standard in the relevant zone
- (g) Underground pipe networks for the conveyance of gas and the conveyance and drainage of water or sewage, and any ancillary equipment including pump stations and gas valve compounds.
- (h) Reservoirs, wells and supply intakes for the reticulation or provision of public water supply.
- (i) Community irrigation and stock water races, public open drains and channels.
- ...
- (m) The operation, maintenance and minor upgrading of utilities. ...

The Utilities Section of the CHBDP identifies the following as discretionary activities:

10.4.3 DISCRETIONARY ACTIVITIES

*The following activities shall be **Discretionary Activities** throughout the District:*

- (a) *Any activity listed as a Permitted Activity or a Controlled Activity which does not comply with the Performance Standards applying to that activity shall be a Discretionary Activity, with the exercise of the Council's discretion being restricted to the matter(s) specified in that standard;*
- (b) *Buildings used for utility activities where they exceed the following:*
- i 15m² in gross floor area and 3.5m in height in the Residential and Township Zones;*
 - ii 50m² in gross floor area and 5.0m in height in the Rural or Business Zones.*
- For the purpose of rule 10.4.3 (b) a building:*
- shall not include antennas, dish antennas, overhead lines, or their support structures.*
 - is subject to the setback from neighbours and road performance standards and the recession line performance standard in the relevant zone;*
- ...
- (i) *Any other utility not specifically listed as a Permitted, Controlled or Discretionary Activity.*

3.3.3 RULES IN THE RURAL ZONE OF THE CHBDP

The activities forming the various components of the RWS Scheme that are not 'utilities' are not provided for as permitted, controlled or non-complying activities in the Rural Zone of the CHBDP and are therefore all classified as discretionary activities under Rule 4.8.3(f) being:

***Any Other Activity**, which is not listed as a Permitted Activity or a Controlled Activity or a Non-Complying Activity.*

3.3.4 DAM, WATER INTAKE AND OUTFALL STRUCTURES, AND HEADRACES

On the basis of the above, the proposed dam and reservoir (falling outside of the definition of 'utility') are discretionary activities under Rule 4.8.3(f) in the Rural Zone of the CHBDP, as they have an associated electricity generation component, and the dam and associated structures (being classified as a building) exceed the permitted height and coverage limits in Rule 4.9 – Performance Standards relating to the Rural Zone.

The proposed reservoir and water intake structures will also breach the performance standards relating to Areas of Significant Conservation Value (Rules 4.9.13 and 10.5.7 as applicable) which require that there be "no modification" to any "Site of Significant Conservation Value". Specifically, the creation of the reservoir will modify Site 18 "Bush margin – Makaroro River", by way of inundation, and the water intake structures will involve modifications to Site 16 "Waipawa River". The planting of new riparian vegetation may also breach Rule 4.9.10 of the CHBDP (in relation to the 10 metre setback from property boundaries).

Rule 4.8.1(l)i in the Rural Zone of the CHBDP provides for gravel extraction from the bed of a river of unlimited amounts and for any purpose as a permitted activity (but notes that a consent may be required from Hawke's Bay Regional Council). Gravel extraction from land (other than the bed of a river) is also a permitted activity if it is used on the same property. There is a limitation of 500m³ on the sale of gravel within any 12 month period. The plan is silent in relation to the use of gravel sourced

from one property and used on another where there is no 'sale' of the material involved (being the case in relation to the RWS Scheme). Earthworks, including gravel extraction, will form part of the land use consent application within the administrative jurisdiction of the CHBDC.

The water intake structures and the headrace (where above ground canals are proposed) are 'utilities' but exceed 50m² (and fall within the definition of 'building'), and will therefore be discretionary activities under Rule 10.4.3(b). The primary and secondary pipelines fall within the definition of 'utility' and are a permitted activity under Rule 10.4.1(g).

Part of one of the headraces (on the northern side of Makaroro Road) is close to an Area of Outstanding Landscape Views (SV1) but does not encroach into this area.

The outfall structures are not expressly provided for as a permitted activity and are therefore discretionary activities under Rule 10.4.3(i).

The headrace in relation to Zone M utilises the old Waipawa River bed (now an ephemeral stream) and the Papanui Stream. While there will be some modification to these streams (the subject of an application within the administrative jurisdiction of the Hawke's Bay Regional Council), these are natural features (not structures) and no resource consent is required from the CHBDC for the use of these waterbodies for the conveyance of water, nor for the earthworks associated with modifying the bed of the river / stream within the administrative jurisdiction of the CHBDC.

3.3.5 ELECTRICITY TRANSFORMER AND LINES

Rule 10.4.1(b) sets a permitted activity level of 1,000 litres of oil in transformers. If the 1,000 litre threshold is exceeded the rules in the Hazardous Substances section of the CHBDP are relevant. In that regard, Rule 13.5.1(b) identifies as a permitted activity:

The use and/or storage of hazardous substances identified in quantities not exceeding those specified in Column A of Table 1 for the relevant zone.

Column A of Table 1 sets a limit of 3,000 litres of oil in the Rural Zone (where such oil is Class 3c Flammable Liquid (petroleum oils) with a flashpoint of >61°C). Tonkin & Taylor personnel have advised that the proposed transformer associated with the generation of electricity at the proposed dam will have approximately 10,000 litres of oil and will therefore be a discretionary activity under Rule 13.5.2 of the CHBDP.

The power lines transmitting the electricity generated will operate at 33kV which makes them a permitted activity under Rule 10.4.1(a) of the CHBDP.

3.3.6 HAZARDOUS SUBSTANCES

Appendix H of the Draft Construction Environmental Management Plan sets out an analysis of the proposal in relation to Chapter 13 of the CHBDP relating to the storage and use of hazardous substances associated with the RWS Scheme (including the electrical transformer discussed above). The outcome of this analysis is that a discretionary activity resource consent application is required under Rule 13.5.2 of the CHBDP.

3.3.7 TELECOMMUNICATIONS AND TELEMETRY FACILITIES

There will be telecommunications and telemetry facilities associated with the operation of the dam, electricity generation facilities, and valves, pumps, and gates associated with the water intake



structures and distribution network. These are permitted activities in Rule 10.4.1(d) above subject to compliance with the following performance standards.

- No antennas, dish antennas or associated structures, including support structures, specified in Rule 10.4.1 (d) shall exceed a maximum height above ground level of 25m in the Rural Zone.
- Any structures and support structures for those activities specified in Rule 10.4.1 shall not obstruct any vehicle sight lines from intersections (not vehicle crossing) as set out in Appendix E “Sight Distance Measurement Diagram.”.
- No dish antennas shall exceed 1,200mm diameter in any zone, except for the Rural Zone or the Business Zone where no dish antennas shall exceed 3m diameter.
- All utilities shall comply with the relevant noise standards of each respective Zone.

Tonkin & Taylor personnel have advised that the telecommunications and telemetry facilities associated with the RWS Scheme will comply with these performance standards.

3.3.8 EARTHWORKS

The CHBDP only controls earthworks (requiring a discretionary activity resource consent) in relation to Sites of Cultural Significance to Tangata Whenua identified in Appendix C of the CHBDP and on the Planning Maps. As previously noted, none of those sites are affected by the RWS Scheme and therefore no resource consent is required from the CHBDC for earthworks. However, as discussed above, earthworks including gravel extraction will form part of the land use consent application within the administrative jurisdiction of the CHBDC.

3.3.9 FARMING ACTIVITIES

The farming activities undertaken by third parties facilitated by the RWS Scheme (including any changes of intensification of land use) are a permitted activity under Rule 4.8.1 of the CHBDP.² If the performance standards applicable to farming are not complied with in relation to any particular property, it will be the responsibility of the individual farmer to secure any necessary resource consent from the CHBDC.

3.3.10 SUMMARY

On the basis of the above, the status of the proposed land use activities under the CHBDP is summarised in Table 3.1 below.

Table 3.1: RMA Activity Status of Activities under the Central Hawke’s Bay District Plan

Activity	Relevant District Plan Rule(s)	Activity Status
▪ Construction, operation, and maintenance of the proposed water storage dam on the Makaroro River.	4.8.3(f)	Discretionary
▪ Reservoir.	4.8.3(f)	Discretionary
▪ Electricity generation.	4.8.3(f)	Discretionary

² Subject to compliance with performance standards and some limitations on ‘Factory Farming’.

<ul style="list-style-type: none"> ▪ Water intake structures. 	<p>10.4.3(b) 10.5.7</p>	<p>Discretionary</p>
<ul style="list-style-type: none"> ▪ Community irrigation and stock water races, public open drains and channels (where above ground).³ 	<p>10.4.3(b)</p>	<p>Discretionary</p>
<ul style="list-style-type: none"> ▪ Underground pipe networks for the conveyance of water, and any ancillary equipment including pump stations. 	<p>10.4.1(g)</p>	<p>Permitted</p>
<ul style="list-style-type: none"> ▪ Water outfall structure.⁴ 	<p>10.4.3(i)</p>	<p>Discretionary</p>
<ul style="list-style-type: none"> ▪ Transmission of electricity: <ul style="list-style-type: none"> ○ Lines for conveying electricity at a voltage up to and including 110KV with a capacity up to and including 100MVA per circuit; ○ Poles, insulator, casing, minor fixture, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any line, or part of line for conveying electricity (as above): <ul style="list-style-type: none"> ➤ restricted to a maximum height of 25m in the Rural Zone; ○ Transformers used for conveying electricity at a voltage up to and including 110KV with a capacity up to and including 100 MVA, containing more than 1,000 litres of oil: <ul style="list-style-type: none"> ➤ restricted to a maximum height of 25m in the Rural Zone; 	<p>10.4.1(a)(i)</p> <p>10.4.1(a)(iii)</p> <p>13.5.2</p>	<p>Permitted</p> <p>Permitted</p> <p>Discretionary</p>
<ul style="list-style-type: none"> ▪ Storage and use of hazardous substances. 	<p>13.5.2</p>	<p>Discretionary</p>
<ul style="list-style-type: none"> ▪ Telecommunications and telemetry facilities. 	<p>10.4.1(d)</p>	<p>Permitted</p>
<ul style="list-style-type: none"> ▪ Operation, maintenance and minor upgrading⁵ of utilities. 	<p>10.4.1(m)</p>	<p>Permitted</p>

³ The open canal headraces forming part of the RWS Scheme fall within the ambit of Rule 10.4.1(i) being a permitted activity, but become a discretionary activity under Rule 10.4.3(b) on the basis that they are 'buildings' and exceed the limit in relation to gross floor area. The RWS Scheme is a Community Irrigation Scheme under the provisions of Plan Change 6 to the Hawke's Bay Regional Resource Management Plan (discussed later in this report). Any alternative interpretation in relation to whether the headrace is a 'community' facility or not is of no consequence in terms of the status of the activity as it would still be a discretionary activity under Rule 10.4.3(i) of the CHBDP.

⁴ Water intake structures and water outfall structures fall within the ambit of different rules (both resulting in discretionary activity status) on the basis that the former is provided for as a permitted activity but becomes a discretionary activity due to a breach of the performance standard relating to coverage while the latter is not provided for as a permitted activity and is caught by Rule 10.4.3(i) being a 'catch-all' rule.

▪ Earthworks.	3.6.1	Permitted
▪ Farming activities undertaken by third parties.	4.8.1	Permitted

The activities identified as permitted activities in Table 3.1 above are subject to compliance with the Performance Standards set out in Section 4.9 in relation to the Rural Zone and Section 10.5 of the CHBDP in relation to Utilities as applicable.

Summary of Consent Requirements:

- A discretionary activity resource consent is required under the rules of the CHBDP⁶ for the following aspects of the RWS Scheme:
 - Construction, operation, and maintenance of the proposed water storage dam and associated reservoir on the Makaroro River including the generation of electricity and an associated transformer;
 - Water intake structures on the Waipawa River;
 - Water distribution headrace (above ground canal component);
 - Water outfall structures on a tributary to the Mangaonuku Stream and a farm watercourse / drain connecting to the Kahahakuri Stream;
 - Storage and use of hazardous substances; and
 - All associated works, structures and ancillary activities (including the modification of Areas of Significant Nature Conservation Value and riparian planting) associated with the above activities.
- All other aspects of the RWS Scheme are either permitted activities under the rules of the CHBDP or, as discussed in Section 4.4 of this report, will be the subject of resource consent applications at a later date.

3.4 RMA STATUS OF ACTIVITIES WITHIN THE HASTINGS DISTRICT

The aspects of the RWS Scheme within the Hastings District (within the jurisdiction of HDC) are:

- The upstream part of the reservoir formed by the construction of the Makaroro Dam (the Dam itself being within the Central Hawke’s Bay District);
- Pipelines for the supply of water (primarily for irrigation purposes) in the northern parts of Zones A and M;
- Land disturbance/earthworks (including a borrow area), vegetation removal, quarrying, the creation of access roads and tracks, riparian planting, and other works and activities associated with the construction of the above; and

⁵ Minor upgrading does not include any increase in the voltage of a line; or an increase in the gross floor area or height of a building for utility activities (unless that increase is for any of the purposes set out in Rule 10.4.1(m)(i) to (vi)).

⁶ Except to the extent such activities are the subject of a designation (discussed in Section 4 of this report).



- The irrigation of land in the northern parts of Zones A and M facilitating farming activities undertaken by third parties (including any changes or intensification of land use).

The RMA status of above land uses within the Hastings District is determined by reference to the Hastings District Plan (HDP) that was made operative on 10 June 2003. There are no proposed District Plan Changes that are relevant to the proposed activities.

Planning Map 16a of the HDP shows that the part of the proposed reservoir will be situated within the Rural Zone in the Hastings District. Planning Maps 17a and 20a show the northern parts of the irrigation areas (Zones A and M) within the Rural Zone of the HDP. See Appendix C for copies of the relevant planning maps.

There are no designations or sites/areas of significance shown on the planning maps that are relevant to the Consent Application Areas within the Hastings District.

3.5 RESOURCE CONSENTS REQUIRED FROM HASTINGS DISTRICT COUNCIL

3.5.1 RESERVOIR

The part of the reservoir in the Hastings District will be within the Rural Zone, however, it is the provisions of the Network Utilities section of the HDP (being a set of 'district wide' provisions) that determine the RMA status of the proposed reservoir.

Rule 13.3.7.2(a) of the HDP provides for the following as a controlled activity:

THE CONSTRUCTION OF NEW WATER RESERVOIRS, OR THE UPGRADING OF EXISTING WATER RESERVOIRS, UP TO 100M² IN PLAN AREA AND 8M IN HEIGHT, WHERE:

- (i) THE RESERVOIR IS NOT SITED WITHIN 30M VERTICAL DISTANCE FROM THE APEX OF A RIDGE OR HILL; AND*
- (ii) THE DISTANCE BETWEEN THE RESERVOIR AND THE BOUNDARY OF ANY NEIGHBOURING RESIDENTIAL ALLOTMENT IS NOT LESS THAN 15M, OR THREE TIMES THE HEIGHT OF THE RESERVOIR (MEASURED FROM GROUND LEVEL OUTSIDE THE RESERVOIR), WHICH EVER IS LESSER.*

The proposed reservoir is squarely within the ambit of the above rule (being a "new water reservoir"). However, it will, at least, exceed 100m² and 8m in height within the Hastings District. Accordingly, the reservoir is a restricted discretionary activity under Rule 13.3.7.3 in the HDP.

Riparian planting is proposed along the edge of parts of the reservoir. A performance standard in the Rural Zone (5.8.8) requires that "trees forming a plantation" shall be located a minimum of 10 metres from an adjoining property boundary. On the basis that the proposed riparian planting could be regarded as a 'plantation' and will include areas within 10 metres of a property boundary, this aspect of the RWS Scheme will be included within the ambit of the land use consent application within the administrative jurisdiction of the Hastings District Council.

3.5.2 PIPELINES

Rule 13.3.7.1(B) of the HDP includes as a permitted activity "In-ground network utilities" which includes water pipelines.



3.5.3 EARTHWORKS

The district wide rules relating to earthworks are potentially relevant to the creation of the reservoir, as well as roads and access tracks. Earthworks are a permitted activity under Rule 13.4.7.1 subject to compliance with the following performance standards:

- 2,000m³ per hectare of property per annum.
- Where vegetation clearance occurs in association with earthworks, disturbed areas shall be re-vegetated within 12 months of the earthworks being undertaken.
- Earthworks shall be undertaken on land with a slope of 45° or less.

Failure to comply with the above performance standards results in restricted discretionary activity status under Rule 13.4.7.2 of the Hastings District Plan.

There will be some earthworks and vegetation clearance within the reservoir area. However, Section 13.4.1 of the HDP states that the earthworks rules do not apply to network utilities. The definition of network utilities in the plan is as follows:

***Network Utilities:** means network utility operations and includes electrical lines, water, sewage and stormwater reticulation, streetlighting, telecommunications facilities, radiocommunications facilities, gas, petroleum or geothermal lines, roads, railway lines, airports, lighthouses, navigation aids and beacons, meteorological services and associated support structures.*

While the definition is somewhat open ended and refers to “water ... reticulation”, it is not clear whether the definition includes water reservoirs. However, given that the Network Utilities section of the HDP specifically includes rules relating to water reservoirs (as set out above) it is considered that they fall within the definition of ‘network utilities’, and on that basis are not subject to the earthworks rules. Having said that, it is noted that the assessment criteria in the HDP for a restricted discretionary activity (the status of the proposed reservoir) includes an assessment of the effects of land disturbance and vegetation removal. Specifically, one of the assessment criteria in Section 13.3.11 of the HDP states:

Land Disturbance and Vegetation Removal

The nature and extent of the activity and the degree to which it may disturb natural landforms or vegetation, create soil instability or lead to adverse ecological effects on natural habitats. In assessing the proposal regard will be had to remedial or restoration works to avoid, remedy or mitigate adverse effects caused by the activity.

Accordingly, the effects of land disturbance and vegetation removal will be assessed as part of the resource consent application for activities within the administrative jurisdiction of HDC. In any event, out an abundance of caution, earthworks and vegetation clearance will be explicitly included within the ambit of the land use consent application for activities within the administrative jurisdiction of HDC.

3.5.4 AGGREGATE EXTRACTION

There is a proposed gravel borrow area between Wakarara Road and the Makaroro River within the Hastings District. Section 13.2 of the HDP relates to, inter alia, aggregate extraction. Rule 13.2.7.1 provides for the following as a permitted activity:

- *THE EXCAVATION OF UP TO 1000m³ PER PROPERTY PER YEAR OF SAND, GRAVEL, METAL OR EARTH (EXCLUDING TOPSOIL) FROM ANY PROPERTY LOCATED IN THE RURAL ZONE.*



- *THE EXCAVATION OR REMOVAL OF UP TO 100M³ OF EARTH (INCLUDING TOPSOIL) PER PROPERTY PER YEAR FROM SITES IN ANY RURAL ZONE FOR ANY BUILDING CONSTRUCTION PURPOSES.*

The volume of material to be excavated will exceed the thresholds in the above provisions and therefore becomes classified as 'mining'. The definition of 'mining' in the HDP is as follows:

Mining: means to take, win or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral, for the purpose of obtaining the mineral or chemical substance; or the removal of more than 25m³ of earth (including topsoil) from any site in any 12 month period; and includes gravel extraction, quarrying and the processing of minerals, but does not include prospecting or exploration, or any of the foregoing where the material is for use on the same site (for example for the establishment or maintenance of tracks on a farm); and to 'mine' has a corresponding meaning.

Rule 13.2.7.3 of the HDP classifies mining as a discretionary activity.

3.5.5 HAZARDOUS SUBSTANCES

No hazardous substances associated with the RWS Scheme will be stored in the Hastings District.

3.5.6 FARMING ACTIVITIES

The farming activities undertaken by third parties within the Hastings District facilitated by the RWS Scheme (including any changes of intensification of land use) are a permitted activity under Rule 5.7.1 of the HDP. If the performance standards applicable to farming are not complied with in relation to any particular property, it will be the responsibility of the individual farmer to secure any necessary resource consent from the HDC.

3.5.7 SUMMARY

On the basis of the above, the status of the proposed land use activities under the HDP is summarised in Table 3.2 below.

Table 3.2: RMA Activity Status of Activities under the Hastings District Plan

Activity	Relevant District Plan Rule(s)	Activity Status
▪ Reservoir.	13.3.7.3	Restricted Discretionary
▪ Underground pipe networks for the conveyance of water.	13.3.7.1(B)	Permitted
▪ Earthworks.	13.4.7.2	Restricted Discretionary
▪ Mining (aggregate extraction).	13.2.7.3	Discretionary
▪ Farming activities undertaken by third parties.	5.7.1	Permitted

Summary of Consent Requirements:

- Applying the ‘bundling’ approach, a discretionary activity resource consent is required under the rules of the Hastings District Plan for the following aspects of the RWS Scheme:
 - The formation of the reservoir as a result of the construction of the Makaroro Dam (the latter being within the Central Hawke’s Bay District) including associated earthworks and vegetation clearance, the construction of roads and tracks, and riparian planting.
 - Mining aggregate associated with a borrow area.
- All other aspects of the RWS Scheme are either permitted activities under the rules of the HDP or, as discussed in Section 4.4 of this report, will be the subject of resource consent applications at a later date.

3.6 HAWKE’S BAY REGIONAL COUNCIL

The activities associated with the RWS Scheme are located entirely within the Hawke’s Bay Region.

Under the RMA, the Hawke’s Bay Regional Council (HBRC) has jurisdiction for the management of the taking of water and the discharge of water and contaminants to water, land and air within the Hawke’s Bay Region. HBRC also controls land uses such as earthworks, the clearance of vegetation, the erection of structures in, on, under or over the beds of rivers, and the disturbance of river beds.

The RMA status of the activities associated with the RWS Scheme within HBRC’s jurisdiction is determined by reference to the Hawke’s Bay Regional Resource Management Plan (“RRMP”) made operative in August 2006. The following planning analysis has been prepared on the basis that Plan Change 6 (PC6) to the RRMP will be notified before the RWS Scheme resource consent applications are lodged and that the rules in PC6, being rules related to water⁷, have immediate ‘legal effect’.

One aspect of the RWS Scheme is located in the Coastal Marine Area whereby the Hawke’s Bay Regional Coastal Environment Plan (Version 3) is relevant.

3.7 RESOURCE CONSENTS REQUIRED FROM HAWKE’S BAY REGIONAL COUNCIL

3.7.1 REGIONAL RESOURCE MANAGEMENT PLAN

There are permitted activity rules in the RRMP relating to the type of activities which form part of the RWS Scheme. However, due to the nature and scale of the proposed activities, the permitted activity performance standards are exceeded in most instances, typically resulting in discretionary activity status.

As noted in Section 3.6 above, PC6 also needs to be considered as it relates to the management of land uses, takes, and discharges within the Tukituki Catchment. In terms of the relevant rules, the key element of PC6 is the need, and ability, to lodge a global land use consent application for the use of

⁷ In terms of section 86B(3) of the RMA.



production land which will establish a set of limits and other measures in relation to the management of nutrient discharges. The scope and effect of PC6 is discussed in more detail in Section 6 of this report. The status of the proposed activities under the RRMP is summarised in Table 3.3 below.

Table 3.3: RMA Activity Status of Activities under the RRMP

Activity	Relevant Regional Plan Rule(s)	Activity Status
<ul style="list-style-type: none"> ▪ Vegetation clearance and soil disturbance associated with earthworks to construct the headraces and pipe network. 	Rule 7	Permitted
<ul style="list-style-type: none"> ▪ Vegetation clearance and soil disturbance associated with earthworks to construct the dam, intake structures, and outfall structure where: <ul style="list-style-type: none"> ➤ Vegetation clearance is within 5m of a permanently flowing river, or any other river with a bed width in excess of 2m. 	Rule 8	Restricted Discretionary
<ul style="list-style-type: none"> ▪ Discharge of contaminants into air from the operation of a moveable aggregate crushing and screening plant⁸ where there is no visible discharge of water spray or dust beyond the boundary of the subject property, or in the case of public land, beyond 50 metres from the discharge or beyond the boundary of the public land, whichever is the lesser. 	Rule 25	Permitted
<ul style="list-style-type: none"> ▪ Discharges to air that do not comply with other rules (i.e. discharges to air associated with all construction activities including concrete batching). 	Rule 30	Restricted Discretionary
<ul style="list-style-type: none"> ▪ Diversion and discharge of stormwater (including in relation to the area in which the proposed transformer will be located). 	Rule 43	Controlled
<ul style="list-style-type: none"> ▪ Discharge of contaminants onto or into land, or into water, or water into water, associated with the construction, operation, and maintenance of the Makaroro Dam on the Makaroro River, the water intakes on the Waipawa River, the water distribution system, the water outfall structure, and including flushing flows released from the Makaroro Dam. 	Rule 52	Discretionary
<ul style="list-style-type: none"> ▪ Take and use of surface water associated the two water takes from the Waipawa River as well as any incidental water takes associated with construction activities for the irrigation scheme. 	Rule 55	Discretionary
<ul style="list-style-type: none"> ▪ Diversion of water not regulated under other rules. 	Rule 59	Discretionary

⁸ Associated with concrete production for dam construction.

<ul style="list-style-type: none"> ▪ The erection or placement of a dam or other barrier structure in, on, under or over the bed of a river, and: <ul style="list-style-type: none"> ➤ Any associated damming and diversion of water; ➤ Any associated discharge of sediment; and ➤ Any associated disturbance of the river bed; where: <ul style="list-style-type: none"> - The catchment area of the new structure exceeds 50ha; - The volume of water to be stored or retained exceeds 20,000m³; - The height of the structure (as measured vertically from the downstream bed to the crest) is greater than 4m; and - Existing fish passage is not maintained. 	Rule 69	Discretionary
<ul style="list-style-type: none"> ▪ Bridges, culverts and other structures, including access structures (temporary and permanent) where the catchment size is greater than 150 ha, or the structure occupies an area exceeding 10m². 	Rule 69	Discretionary
<ul style="list-style-type: none"> ▪ The erection of structures (and the introduction of plants and trees) in, on, or under the bed of a river (or within 6m of a river) and within a land drainage or flood control scheme area.⁹ This will include the water intake structures, headraces, siphons, culverts, outfall structures and plantings. 	Rule 71	Discretionary
<ul style="list-style-type: none"> ▪ The extraction of sand, gravel or other material from the bed of a river (beyond the limits in Rule 73). 	Rule 74	Restricted Discretionary
<ul style="list-style-type: none"> ▪ Land use consent for the use of production land pursuant to section 9(2) of the RMA within the Tukituki River catchment. 	Rule TT2 (PC6)	Discretionary
<ul style="list-style-type: none"> ▪ Maintenance of lawfully established structures, and associated disturbance, discharges of sediment and diversions. 	Rule 64	Permitted
<ul style="list-style-type: none"> ▪ Use of a lawfully established structure. 	Rule 63	Permitted
<ul style="list-style-type: none"> ▪ Removal and demolition of structures (e.g. those associated with construction – coffer dams, diversion channels etc), and associated disturbance, diversion and discharge of sediment. 	Rule 66	Permitted

Potable water for domestic use by the construction workforce will be transported to the construction sites. Port-a-loos will be used whereby sewage will be transported off-site and disposed of in a lawful manner by a contractor.

⁹ Parts of the RWS Scheme, including structures, are located within the Upper Tukituki Flood Control Scheme (UTTFCs) area. See Appendix D for a map showing the extent of the UTTFCs.

Under Rules 7 and 8 of the RRMP, thrusting, boring, trenching or mole ploughing associated with cable or pipe laying or a network utility operation¹⁰, and foundation works for structures, are excluded from the definition of vegetation clearance and soil disturbance. On that basis vegetation clearance and soil disturbance associated with the following activities would be excluded from Rules 7 and 8:

- The construction of open channels / headraces and pipelines to distribute water;
- The laying of any cables associated with the distribution/transmission of electricity;
- The construction of electricity transmission lines by an electricity operator or electricity distributor (as defined under section 2 of the Electricity Act 1992); and
- Foundation works for any structures, including substation buildings.

However, because HBRIC is not an electricity operator or electricity distributor, and out of an abundance of caution, earthworks and vegetation clearance will be included within the ambit of the relevant resource consent applications for the aspects of the RWS Scheme within the administrative jurisdiction of the HBRC.

3.7.2 REGIONAL COASTAL ENVIRONMENT PLAN

As a mitigation measure for the reduction in the amount of sediment being transported downstream due to the construction of the proposed Makaroro Dam, it is proposed that up to 3,400 m³ of sediment be deposited on the beaches (within the Coastal Marine Area) to the north and south of the mouth of the Tukituki River for beach nourishment purposes. The status of the proposed beach nourishment under the Hawke’s Bay Regional Coastal Environment Plan is summarised in Table 3.4 below.

Table 3.4: RMA Activity Status of Activities under the Regional Coastal Environment Plan

Activity	Relevant Regional Coastal Environment Plan Rule(s)	Activity Status
▪ Beach nourishment (i.e. the deposition of sediment within the Coastal Marine Area).	Rule 139	Restricted Discretionary

The proposed beach nourishment is not identified as a Restricted Coastal Activity in the Hawke’s Bay Regional Coastal Environment Plan. In any event, Policy 29 of the operative NZ Coastal Policy Statement 2010 has ended the use of Restricted Coastal Activities as an activity classification. It states:

“Policy 29 Restricted Coastal Activities

- (1) The Minister of Conservation does not require any activity to be specified as a restricted coastal activity in a regional coastal plan.
- (2) Local authorities are directed under sections 55 and 57 of the Act to amend documents as necessary to give effect to this policy as soon as practicable, without using the process in Schedule 1 of the Act, with the effect that:
 - (a) any activity specified as a discretionary activity and a restricted coastal activity becomes a discretionary activity only;
 - (b) any activity specified as a non-complying activity and a restricted coastal activity becomes a non-complying activity only.

¹⁰ As defined under section 166 of the RMA.



- (3) Any application for a coastal permit for an activity specified as a restricted coastal activity that has been publicly notified before the date the amendments in clause (2) are made shall continue to be treated as an application for a restricted coastal activity for the purposes of section 117 of the Act.
- (4) Any other application for an activity specified as a restricted coastal activity made before the date of the amendments in clause (2), shall be considered as a discretionary or non-complying activity in accordance with the regional coastal plan or proposed regional coastal plan's classification and section 117 does not apply."

3.7.3 SUMMARY

Summary of Consent Requirements:

- Discretionary activity resource consent is required for:
 - the construction, operation, and maintenance of the dam, water intake structures, siphons, pipelines, and discharge structures within the rivers (and headraces within 6m of the rivers), including the associated culverts, damming and diversion of water, discharge of water and sediment, and disturbance of the river and stream beds;
 - the damming, diversion and discharge of water and the discharge of water and contaminants to land and water;
 - the take and use of water for irrigation, electricity generation, construction, stock and domestic supply and other purposes;
 - the use of production land pursuant to section 9(2) of the RMA within the Tukituki River catchment; and
 - plantings within a Flood Control Area.
- Restricted discretionary resource consent is required for:
 - any soil disturbance (earthworks) or vegetation clearance within 5m of a river;
 - discharges to air associated with construction activities;
 - the extraction of sand, gravel or other material from the beds of rivers; and
 - beach nourishment.
- Controlled activity resource consent is required for:
 - The diversion and discharge of stormwater.
- All other aspects of the RWS Scheme are either permitted activities under the rules of the RRMP or, as discussed in Section 4.4 of this report, will be the subject of resource consent applications at a later date.

If the bundling approach is applied to the activities within the Hawke's Bay Regional Council's jurisdiction, the overall status of the resource consent applications would be discretionary.

3.8 DEPARTMENT OF CONSERVATION

As noted in Section 3.2.1 above, an Area of Significant Nature Conservation Value (Site 18) is located alongside the Makaroro River within the reservoir that will be formed by the construction of the Makaroro Dam. Site 18 is identified in Appendix D of the CHBDP as the "Bush margin – Makaroro River", owned by the Crown (in this case administered by the Department of Conservation).

On the basis of the above, an application will be made to the Department of Conservation for a concession to inundate Site 18 at the same time the resource consent applications are lodged for the RWS Scheme.

3.9 NATIONAL ENVIRONMENTAL STANDARDS

No resource consents are required for the RWS Scheme in relation to any National Environmental Standards. Potentially relevant National Environmental Standards are discussed in Section 6 of this report.



4 CONSENTING APPROACH

The following presents the proposed approach in terms of the manner in which approval under the RMA is to be sought for the RWS Scheme (being a combination of a notice of requirement and resource consent applications) as follows:

- A notice of requirement (NOR) will be lodged with the Environmental Protection Authority (for activities within the administrative jurisdiction of the CHBDC) for the proposed primary headrace canal and pipelines located within Zones A - D; and
- Resource consent applications will be lodged with the Environmental Protection Authority for all other aspects of the RWS Scheme (for activities within the administrative jurisdiction of the CHBDC, HDC, and HBRC) that are not permitted activities or otherwise proposed to be the subject of resource consent applications at a later date (as discussed in Section 4.4 of this report).

To the extent that the NOR relates to land already designated for State Highway 50, the New Zealand Transport Agency has provided its written approval under section 177(1)(a) of the RMA.

The aspects of the RWS Scheme that are permitted activities and will not be the subject of any notice of requirement or a resource consent application are set out in Table 4.1 below.

Table 4.1: Permitted Activities

Permitted Activities
▪ The secondary pipelines.
▪ The 33kV electricity lines.
▪ Bridges associated with the primary distribution system headrace canal within Zones A - D.

In relation to the last item in Table 4.1 above, the Project Description includes details in relation to bridges that will be constructed over the primary headrace canal. No consents are required for these bridges on the basis of the following:

- To the extent they are proposed within 'road reserves' and form part of the road (i.e. Caldwell Road, Ngaruru Road, and Wakarara Road), such activities fall within the ambit of the existing designations relating to the roads in question within the Central Hawke's Bay District and could be undertaken by HBRIC Ltd under that designation (with the permission of CHBDC – refer to sections 176 and 177 of the RMA).
- To the extent they are farm bridges (9 have been anticipated in the Project Description), they will form part of the activities authorised by the designation for the primary headrace canals.
- None of the proposed bridges relate to natural waterbodies (and the bridges will be constructed prior to the conveyance of any water within the primary headrace canal) and therefore do not give rise to the need for a resource consent within the administrative jurisdiction of the HBRC.

The resource consent applications and the notice of requirement will be lodged with the Environmental Protection Authority (EPA) in accordance with s.145 of the RMA.



4.1 DISTRICT COUNCIL JURISDICTION

Comprehensive land use consent applications will be lodged with the EPA for the activities associated with the RWS Scheme within the administrative jurisdiction of each of the CHBDC and HDC.

4.2 REGIONAL COUNCIL JURISDICTION

Applications for a total of 15 resource consents will be lodged with the EPA for the activities associated with the RWS Scheme within the administrative jurisdiction of the HBRC. The applications will be structured in a manner whereby there will be a single comprehensive resource consent application for the construction, operation (on-going existence and running) and maintenance of each key element of the RWS Scheme (or group of similar activities) (e.g. dam, intake structures, siphons).

Each of the resource consent applications for the various structures is followed by a separate resource consent application (where required) for the water related use of the structure (e.g. damming, diversion, take, use and discharge of water) associated with each of the various elements of the RWS Scheme as required (post construction).

There are two land use consent applications, one for the use of production land, and the other for plantings within a Flood Control Scheme area. Finally, there is an application for the deposition of sediment within the Coastal Marine area to the north and south of the mouth of the Tukituki River for the purposes of beach nourishment.

Each of the applications, along with an explanation as to what they cover (in 'plain English' terms), is set out as follows. For consenting purposes, the scope of each application is framed in Part A – Resource Consent Applications.

4.2.1 MAKARORO DAM

- An application to build, operate, and maintain a dam on the Makaroro River (LU120370C).

This application includes everything to do with the construction of the Makaroro Dam such as earthworks (including borrow areas and cut-to-waste disposal areas), vegetation clearance, streambed works and gravel extraction, water takes, temporary coffer dams, construction lay down areas, concrete batching, project offices and construction staff facilities, and all associated discharges to land, air and water (including discharges of stormwater). Post-construction, it is intended to cover all aspects of the on-going existence, operation and maintenance of the Makaroro Dam itself. It does not cover the management and use of water stored within the reservoir behind the dam which is covered by a separate consent – see below).

- An application to operate the dam and reservoir (WP120371M).

This application relates to the operation of the dam as it relates to the water in the reservoir following construction. It authorises the filling of the reservoir behind the dam, storage of water in the reservoir, diverting/taking water from the reservoir, using it for electricity generation or directing it over the spillways, and then discharging it below the dam. The application includes a reference to 'water-borne sediment' on the basis that there will be sediment within the water column that will pass through the dam. Minimum flows and flushing flows will be managed under this consent.

4.2.2 OTHER STRUCTURES

- Two applications are made to build and maintain the Upstream Water Intake Structure and the Downstream Water Intake Structure on the Waipawa River (LU120372C and LU120374C).



- An application is made to install and maintain siphons and/or pipelines associated with a water distribution system under the beds of rivers and streams (LU120376C).
- An application is made to build and maintain the headraces within, or near to, the beds of rivers and streams, and to also allow for emergency overflow / spillway discharges to land and surface water (LU120377C).
- Two applications are made to build and maintain two water outfall structures, one on a tributary to the Mangaonuku Stream, and one on a farm watercourse / drain connecting to the Kahahakuri Stream (LU120378C and LU120380C).

These applications cover everything to do with the construction of these structures such as earthworks (including borrow areas and cut-to-waste disposal areas), vegetation clearance, streambed works and gravel extraction, water takes, construction lay down areas, concrete batching, and all associated discharges to land, air and water (including discharges of stormwater).

Post-construction, these consents are intended to cover all aspects of the on-going existence, operation, maintenance, and upgrading of the various structures themselves. They do not cover the management and use of water through the structures - being the subject of separate consents).

4.2.3 WATER PERMITS

- Two applications are made to take water from the Waipawa River (via the two water intake structures referred to above) and to use that water for water supply including for irrigation purposes on production land (WP120373T and WP120375T).

These applications refer to providing a 'water supply' which is primarily for irrigation purposes, but can also include other domestic and agricultural or horticultural purposes such as potable water (if treated appropriately), stock water, frost protection, or dairy shed wash down. Any consents granted pursuant to these applications will include upper limits as to the amount of water that can be taken from the Waipawa River at each location. Where, how much, and for what purpose water is used within the production land areas will be a function of the individual choices of land owners obtaining water from the RWS Scheme.

4.2.4 DISCHARGE PERMITS

- Two applications are made to discharge water and any associated contaminants through the outfall structures referred to above to a tributary to the Mangaonuku Stream and a farm watercourse / drain connecting to the Kahahakuri Stream (DP120379W and DP120381W).

The applications are intended to cover the discharge of water from the primary headrace canal and pipeline network back into natural waterways which will then flow downstream to be collected by the Downstream Water Intake Structure for use within Zone M, or remain in the river.

No discharge permit is required for the flow of residual water at the northern end of Zone M. At this point any water is within the Papanui Stream which naturally flows into the Tukituki River.

4.2.5 LAND USE CONSENT - USE OF PRODUCTION LAND

- A land use consent for the use of production land within the Tukituki River catchment facilitated by the RWS Scheme (LU120382L).



This application complies with PC6 relating to the Tukituki River catchment. It will allow for the use and intensification of agricultural land within defined areas irrigated by the RWS Scheme (i.e. Zones A – D and M).

Any water supplied to properties beyond Zones A – D and M is intended to replace and/or supplement existing ground or surface water takes which may be affected by the new minimum flow requirements in Plan Change 6 (discussed later in this report). On the basis that this does not involve an increase in the amount of water able to be used on those properties, no intensification of land use is facilitated by the RWS Scheme (compared with the existing situation) whereby the relevant land use rule in PC6 is not triggered. If (for any unforeseen reason) that is not the case, the individual farmer will be responsible for obtaining any necessary resource consent.

4.2.6 LAND USE CONSENT - PLANTINGS IN A FLOOD CONTROL SCHEME AREA

- The application is to allow for trees and shrubs to be planted within the Upper Tukituki Flood Control Scheme area (LU120388P).

This application is to allow plantings as proposed in the report: 'Ruataniwha Water Storage Project: Proposed Integrated Mitigation and Offset Approach' forming part of Part C – Assessment of Environmental Effects of the Ruataniwha Water Storage Scheme Resource Consent Application Suite.

4.2.7 BEACH NOURISHMENT

- This application is to allow the placement sand and gravel for the purposes of beach nourishment (LU120400D).

The construction of the Makaroro Dam will trap sand and gravel that would otherwise flow down the river and out to the coast via the Tukituki River. This may have some effect on the beaches to the north and south of the mouth of the Tukituki River. Accordingly, to address this situation, it is proposed to deposit up to 1,700m³ of sand and gravel per year on each of the beaches to the north and south of the mouth of the Tukituki River (a total of 3,400m³ of sand and gravel).

4.3 TERM OF CONSENTS AND LAPSE PERIODS

As is normal practice with most land use consents within the jurisdiction of a territorial authority, no term of consent is proposed (i.e. if the consent is given effect to, and the activity is not discontinued for a period of 12 months or more, the consent will endure indefinitely). Accordingly, no term of consent is sought in relation to the land use consents for the RWS Scheme for activities within the administrative jurisdiction of the CHBDC and HDC.

Given the nature of the proposal and the scale of investment associated with the RWS Scheme, a term of 35 years is sought in relation to all of the resource consents for activities within the administrative jurisdiction of the HBRC. None of the applications for activities within the administrative jurisdiction of the HBRC involve reclamations.

A lapse period of 10 years is sought in relation to all of the applications for activities within the administrative jurisdiction of the CHBDC, HDC, and HBRC.

A lapse period of 10 years is also sought in relation to the designation for the primary headrace canal and pipelines within the administrative jurisdiction of the CHBDC.

A lapse period of 10 years is sought on the basis that:



- The Preliminary Construction Programme in Appendix B of the Project Description indicates a construction period of approximately four and half years;
- There will be a lead-in period prior to construction associated with completing land owner negotiations and agreements, contract management, financing, detailed design, and the finalisation of the various management plans required by the proposed consent conditions (see Part D); and
- An allowance for delays at any stage of the construction phase.

It is also noted that, for similar reasons, a 10 year lapse period (or longer) is typically applied to other large scale infrastructure development projects including New Zealand Transport Agency’s state highway projects (e.g. sections of the Waikato Expressway)¹¹ and renewable electricity generation projects (e.g. Contact Energy Ltd’s Tauhara 2 Geothermal Development Project and the Hauāuru mā raki - Waikato Wind Farm).

4.4 APPLICATIONS TO BE MADE AT A LATER DATE

There are a number of aspects of the RWS Scheme that will or may be the subject of further resource consent applications at a later date. Aspects of the RWS Scheme in this category are mostly minor matters or elements about which the location or details are unable to be determined prior to detailed design and/or the construction phase. These activities are listed in Table 4.2 below along with the reasons why no application is being made at this stage of the project.

There are not considered to be any significant issues associated with applying for these additional consents at a later date as they would not raise new issue or effects of a different kind or scale to those associated with the activities for which consent is currently being sought. As such, it is not necessary to enable a proper understanding of the effects of the RWS Scheme to make those applications now.

Table 4.2: Activities that Will or May be the Subject of Resource Consent Applications at a Later Date

Activity	Jurisdiction	Reason for Any Application being at a Later Date
<ul style="list-style-type: none"> ▪ Subdivision consents. 	CHBDC and HDC	There will need to be changes to the pattern of land tenure associated with the construction and operation of the RWS Scheme, particularly in the vicinity of the proposed Makaroro Dam and the associated reservoir. The negotiations with land owners and land purchase arrangement will not be completed until after any consents have been granted for the RWS Scheme, at which time the extent to which proposed changes to property boundaries and land ownership will be known and able to be formalised following any subdivision consents being obtained. Similarly any legal issues or property rights associated with the manner in which the land for the RWS Scheme is held or controlled by HBRIC Ltd will be addressed at that time.
<ul style="list-style-type: none"> ▪ Sediment extraction from within the reservoir behind the proposed Makaroro 	HBRC	The application for the construction and operation of the Makaroro Dam includes the extraction of gravel during construction, and on an ongoing basis to

¹¹ In the recent Board of Inquiry decision in relation to the MacKays to Peka Peka Expressway, a lapse period of 15 years was adopted.

<p>Dam (post construction) for the purpose of maintaining water storage capacity.</p>		<p>maintain the operational integrity of the water intake structure for the dam within the reservoir.</p> <p>There could also be some extraction of gravel from the reservoir post construction for the purpose of maintaining water storage capacity of the reservoir. However, any such activity is not anticipated to be required for at least 20 years and the level of extraction required to maintain storage capacity is consistent with existing rates of extraction activity within the Makaroro / Waipawa / Tukituki Rivers, and as such would not introduce any new effects. Details of any such proposal would be determined at the time, including the method of extraction and the location(s) in which the sediment will deposited or used.</p>
<ul style="list-style-type: none"> ▪ Stream crossings associated with secondary pipelines. 	<p>HBRC</p>	<p>Underground pipelines for the distribution of water are permitted activities except where they cross the bed of a river or stream. The location of the secondary pipelines will not be known until after any consents for the RWS Scheme have been granted and supply agreements are in place. At that time the location of the secondary pipelines and any associated stream crossings will be able to be determined and consents applied for at that time.</p>
<ul style="list-style-type: none"> ▪ By-wash from secondary pipelines. 	<p>HBRC</p>	<p>There will be a need to allow for by-wash (i.e. the discharge of any surplus water) within the secondary pipelines. The location of the secondary pipelines will not be known until after any consents for the RWS Scheme have been granted and supply agreements are in place. At that time the location of the secondary pipelines and any associated points of discharge of by-wash will be able to be determined, and consents applied for accordingly. Such water is likely to be of relatively high quality and therefore discharge of low volumes to ground or to natural waterways is not likely to be an issue.</p>
<ul style="list-style-type: none"> ▪ Bridges or other forms of stream crossings within Zone M. 	<p>HBRC</p>	<p>Details in relation to the need for bridges or other forms of stream crossings associated with the use of the old Waipawa River bed and the Papanui Stream for the conveyance of water will be determined at a later date as part of arrangements to be entered into with landowners.</p>
<ul style="list-style-type: none"> ▪ Sediment extraction for beach nourishment purposes. 	<p>HBRC</p>	<p>An application will be made for the deposition of up to 3,400m³ per annum on the beaches to the north and south of the mouth of the Tukituki River for the purposes of beach nourishment. However, no application is being made at this stage for the extraction of river bed sediment to provide the 3,400m³ of material required. This is because HBRC operates a system whereby consents to extract sediment from the rivers in the Hawke's Bay Region are applied for and granted on an annual basis. There is no point in applying for a consent as part of the current</p>

		<p>applications as it will expire before it is intended to be implemented (i.e. following the construction of the Makaroro Dam – some years away). In any event, if necessary, HBRIC is able to purchase material from one of the other holders of a consent to extract river bed sediment at the time the material is required.</p>
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4.5 OTHER MATTERS TO BE ADDRESSED AT A LATER DATE

In addition to the need for additional resource consents that will be applied for at a later date (discussed above), there are a number of other matters and/or legal processes than will, or may, need to be addressed at a later date including:

- An application to the New Zealand Historic Places Trust for a general authority under section 12 of the Historic Places Act 1993 to be able to modify any archaeological site(s) that may be discovered during construction activities;
- An application to the Director-General of Conservation under the Freshwater Fisheries Regulations 1983 for the construction of the Makaroro Dam in relation fish passage and/or fish transfer.
- An application to the Department of Conservation for a permit under the Wildlife Act 1953 to translocate and/or potentially harm wildlife (e.g. bats and lizards) associated construction activities;
- Seeking approval from CHBDC under section 177 of the RMA to establish bridges and install pipelines within road reserves that are the subject of an existing designation (including consideration of any relevant legal requirements under the Local Government Act 1974 and/or codes of practice);
- The possible need for any road closures or licences to occupy in relation to any paper roads; and
- Any Development Contributions that may be payable to CHBDC or HDC.

These matters are not addressed any further in this report.

5 STATUTORY CONSIDERATIONS

The following sets out the matters specified in the RMA that a consent authority must have regard to when considering applications for resource consents and notices of requirement.

5.1 RESOURCE CONSENT APPLICATIONS

Section 104 of the RMA specifies the matters that a consent authority must have regard to when considering applications for resource consents, as follows:

104 Consideration of applications

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of—*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

In terms of section 104(1)(a), a comprehensive Assessment of Environmental Effects has been submitted with the resource consent applications for the RWS Scheme (see Part C - Assessment of Environmental Effects of the Ruataniwha Water Storage Scheme Resource Consent Application Suite).

The policy and planning documents listed in section 104(1)(b) are discussed in the next section of this report.

The consent authority (in this case the Board of Inquiry, assuming the Minister refers HBRIC's applications to a Board of Inquiry) will need to consider what, if any, additional matters are relevant under section 104(1)(c) of the RMA.

As a discretionary activity (being the most restrictive of the RMA classifications relating to the proposed activities), section 104B of the RMA states that, after considering an application for a resource consent for a discretionary activity under section 104, a consent authority:

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

Sections 105 and 107 of the RMA set out some additional matters that need to be considered in relation to applications for discharge permits as follows:

105 Matters relevant to certain applications

- (1) *If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to—*
- (a) *the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
 - (b) *the applicant's reasons for the proposed choice; and*



- (c) any possible alternative methods of discharge, including discharge into any other receiving environment.

107 Restriction on grant of certain discharge permits

- (1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing—
- (a) the discharge of a contaminant or water into water; or
 - (b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
 - (ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant,—
if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:
 - (c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
 - (d) any conspicuous change in the colour or visual clarity;
 - (e) any emission of objectionable odour;
 - (f) the rendering of fresh water unsuitable for consumption by farm animals;
 - (g) any significant adverse effects on aquatic life.
- (2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied—
- (a) that exceptional circumstances justify the granting of the permit; or
 - (b) that the discharge is of a temporary nature; or
 - (c) that the discharge is associated with necessary maintenance work— and that it is consistent with the purpose of this Act to do so.
- (3) In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.

The proposed discharges associated with the RWS Scheme are assessed in relation to sections 105 and 107 of the RMA in Part A - Assessment of Environmental Effects. In this regard, it is noted that the RWS Scheme does not trigger any of the restrictions in section 107(1)(c)-(g) against the granting of the relevant discharge permits.

5.2 NOTICE OF REQUIREMENT

Section 171 of the RMA specifies the matters that a territorial authority must have particular regard to when considering a NOR, as follows:

171 Recommendation by Territorial Authority

- (1A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.
- (1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2 consider the effects on the environment of allowing the requirement, having particular regard to—
- (a) any relevant provisions of—
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;

6 POLICY AND PLANNING DOCUMENTS

The following provides a planning analysis of the RWS Scheme in relation to the relevant policy and planning documents prepared under the RMA (sometimes referred to as 'statutory instruments') that need to be considered as part of the assessment of the resource consent applications and the NOR. The following planning analysis is presented in relation to the RWS Scheme as an integrated project (rather than a separate analysis in relation to the applications and NOR). The various documents are discussed in the order of their position in hierarchy of policy and planning documents under the RMA as follows.

6.1 NATIONAL POLICY STATEMENTS

6.1.1 NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT

The National Policy Statement for Freshwater Management (NPSFM) is the most relevant NPS to the RWS Scheme. It was gazetted on 12 May 2011 and took effect on 1 July 2011. The NPSFM is part of a package of water reforms known as the "Fresh Start for Fresh Water" announced by the Government in May 2011. It is intended to help drive national consistency in local RMA planning and decision-making for freshwater management while allowing for an appropriate level of regional flexibility in implementation.

The major thrust of the NPSFM is the setting of limits on both water quality and quantity that reflect national and local values. Accordingly, it introduces a number of objectives and accompanying policies relating to water quality and water quantity.

The objectives in the NPSFM relating to water quality are as follows:

Objective A1

To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their ecosystems of fresh water, in sustainably managing the use and development of land, and of discharges of contaminants."

Objective A2

The overall quality of freshwater within regions is maintained or improved while:

- a) *protecting the quality of outstanding freshwater bodies¹²*
- b) *protecting the significant values of wetlands and*
- c) *improving the quality of freshwater in water bodies that have been degraded by human activities to the point of being over-allocated.*

The objectives in the NPSFM relating to water quantity are as follows:

Objective B1

To safeguard the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water, in sustainably managing the taking, using, damming, or diverting of fresh water.

Objective B2

To avoid any further over-allocation of fresh water and phase out existing over-allocation.

¹² Outstanding freshwater bodies are defined in the NPS as "those water bodies with outstanding values, including ecological, landscape, recreational and spiritual values".

Objective B3

To improve and maximise the efficient allocation and efficient use of water.

Objective B4

To protect significant values of wetlands.

An important point to note is that over-allocation is defined in the NPSFM in terms of both water quantity and water quality.

The NPSFM also contains policies that provide direction on water quality, water quantity, integrated management (i.e. recognising the impacts of land use changes on water quality) and iwi/hapu interests. The way in which the NPSFM is to be implemented is through the provisions of regional plans.

The NPSFM must be fully implemented by 31 December 2030. Where councils cannot implement the NPSFM by the end of 2014 they must identify a programme of time-limited stages (to meet the 2030 date) against which they must report annually on their progress. Any such programme must be formally adopted by councils within 18 months of the gazettal of the NPSFM, and be publicly notified.

Plan Change 6 to the Hawke's Bay Regional Resource Management Plan (discussed later in this report) sets out the planning provisions intended to implement and give effect to the NPSFM in the Tukituki catchment within which the RWS Scheme is proposed.

6.1.2 NATIONAL POLICY STATEMENT FOR RENEWABLE ELECTRICITY GENERATION

The National Policy Statement for Renewable Electricity Generation (NPS REG) came into effect on 13 May 2011.

The objective of the NPS REG 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.¹³

The NPS REG works alongside other government initiatives as part of New Zealand's wider response to tackling climate change.

The NPS REG ensures that the national benefits of renewable electricity generation are taken into account in consenting decisions. It also requires decision makers to have particular regard to the locational requirements, the logistical or technical practicalities, and infrastructure requirements associated with developing, upgrading, operating or maintaining renewable electricity generation activities. By giving this guidance, the NPS REG promotes a more consistent approach to balancing the competing values associated with the development of New Zealand's renewable energy resources when consent authorities make decisions. This is intended to give greater certainty to applicants and the wider community.

The NPS REG also requires local authorities, unless they have already provided for renewable electricity generation activities, to give effect to its provisions by notifying changes to existing or proposed

¹³ The Government's national target for renewable electricity generation is 90 per cent of electricity from renewable sources by 2025.

regional policy statements and plans by 13 May 2013. This includes a requirement to include objectives, policies, and methods (including rules within plans) to provide for the development, operation, maintenance, and upgrading of new and existing electricity generation activities to the extent applicable to the region or district.¹⁴

The proposed generation of hydro-electricity as part of the RWS Scheme is entirely consistent with the outcomes sought to be achieved by the NPS REG.

6.1.3 PROPOSED NATIONAL POLICY STATEMENT ON INDIGENOUS BIODIVERSITY

The proposed National Policy Statement on Indigenous Biodiversity (NPSIB) is intended to provide clearer direction to local authorities on their responsibilities for managing indigenous biodiversity under the RMA. It outlines policies and decision-making frameworks for the identification and management of indigenous biodiversity found outside the public conservation estate.

The proposed NPSIB contains a list of criteria for identifying areas of indigenous vegetation and habitats of indigenous fauna that have been recognised as being rare and/or threatened at a national level. The proposed NPSIB requires district and relevant regional plans to identify these areas of significant biodiversity within five years of the NPSIB taking effect. Given that the NPSIB has yet to be finalised (and the timeframe for its finalisation being unknown), it is not yet known as to how district and regional councils will seek to implement the NPSIB.

Local authorities would be required to manage the effects of activities through district and regional plans and resource consent decisions (or be satisfied that effects are managed by other methods) to ensure that significant indigenous biodiversity is maintained.

The proposed NPSIB seeks to promote the maintenance of indigenous biodiversity while recognising the rights and responsibilities of landowners and the interests of Maori.

Submissions on the proposed NPSIB closed on 2 May 2011. The Ministry for the Environment (MfE) is evaluating the submissions and may, where necessary, seek further comments from stakeholders. MfE will then produce a summary of submissions and provide recommendations to the Minister for the Environment.

As the proposed NPSIB has not yet been finalised and gazetted it has no legal effect other than as a potentially relevant matter under s.104(1)(c) of the RMA. However, HBRIC Ltd has anticipated the likely effect of the proposed NPSIB, particularly in relation to indigenous biodiversity associated with the Makaroro River and its environs where the Makaroro Dam and reservoir are proposed.

As discussed in the AEE, environmental mitigation proposals have been incorporated into the design of the RWS Scheme. The report 'Ruataniwha Water Storage Project: Proposed Integrated Mitigation and Offset Approach' (HBRIC (May 2013f)) sets out the way in which the residual biophysical effects (e.g. effects on terrestrial and aquatic ecology after practicable mitigation) are addressed around the dam/reservoir area and downstream to the Upstream Water Intake Structure. In addition to effects on indigenous biodiversity, the flooding of the Makaroro River bed upstream of the dam will also have a permanent effect on recreation facilities and the historic Yeoman Mill site at the end of Wakarara Road. As such, the effects on recreation, landscape, heritage and cultural values have also been considered as part of the integrated mitigation and offset approach.

¹⁴ Refer to Policy E2 Hydro-Electricity Resources of the NPS REG.



6.2 NEW ZEALAND COASTAL POLICY STATEMENT 2010

The New Zealand Coastal Policy Statement 2010 (NZCPS) is relevant to the proposed beach nourishment to the north and south of the mouth of the Tukituki River.

There are 7 objectives and 29 policies in the NZCPS. Objectives and 1 and 2 of the NZCPS are of relevance to the beach nourishment associated with the RWS Scheme as follows:

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 or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *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.*

Objective 2

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- *recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and*
- *encouraging restoration of the coastal environment.*

The proposed beach nourishment is intended to maintain the functioning of the coastal environment as well as associated physical processes (part of Objective 1) and can be seen as a form of restoration (referred to in Objective 2).

Policy 14 in the NZCPS is to "Promote restoration or rehabilitation of the natural character of the coastal environment ...", following which is a list of the ways in which such an outcome might be achieved. One of the ways listed is "restoring and protecting riparian and intertidal margins".

On the basis of the above, the proposed beach nourishment is consistent with the relevant objectives and policies in the NZCPS.

6.3 NATIONAL ENVIRONMENTAL STANDARDS

6.3.1 NES FOR SOURCES OF HUMAN DRINKING WATER

The Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007 is relevant to the RWS Scheme.

The requirements of the NES are addressed in the proposed conditions. Specifically, see Schedule 3 of Part D – Proposed Conditions.



6.3.2 NES FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH REGULATIONS 2011

The NES has potential application to the extent that any land affected by the RWS Scheme falls within clause 5(7) of the NES states:

Land covered

- (7) *The piece of land is a piece of land that is described by 1 of the following:*
- (a) *an activity or industry described in the HAIL is being undertaken on it;*
 - (b) *an activity or industry described in the HAIL has been undertaken on it;*
 - (c) *it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.*

However, regarding such land, the NES only applies to the extent that the RWS Scheme involves a “change of use” as defined in clause 5(6), or for any disturbance of soil covered by clauses 5(4) or 5(8) of the NES.

Attached (as Appendix E) is a report prepared by Tonkin & Taylor which confirms that clause 5(7) applies to part of the reservoir site (i.e. the site of Gardner and Yeoman’s Sawmill) due to storage of diesel and petrol in drums to run the sawmill (rather than any timber treatment processes). The report outlines steps to ensure any soil disturbance to which the NES might apply can be managed within permitted limits, and that the risk from contamination in respect of the proposed RWS Scheme activities in this area are low.

Beyond this, legal advice has been obtained that neither the construction of the dam or reservoir, nor the water distribution network components of the RWS Scheme, comprise a “change of use” or soil disturbance to which Regulations 5(6) and (8) of the NES apply (on the basis that any harm to human health is not reasonably likely, given the intended use of the water distributed through the RWS Scheme and any soil disturbance is not for the purpose of establishing residential buildings).

6.4 OTHER REGULATIONS

6.4.1 MEASUREMENT AND REPORTING OF WATER TAKES

The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 are relevant to the water takes forming part of the RWS Scheme. The manner in which these regulations are to be implemented is addressed in Proposed Change 6 to the Hawke’s Bay Regional Resource Management Plan (discussed later in this report).

Apart from the above, there are no ‘other regulations’ relevant to the applications or the NOR associated with the RWS Scheme.

6.5 HAWKE’S BAY REGIONAL RESOURCE MANAGEMENT PLAN

The Hawke’s Bay Regional Resource Management Plan (RRMP) is a combined regional policy statement (RPS) and a regional plan. It sets out a wide range of objectives, policies and methods (mainly rules) in relation to the management of natural and physical resources within the jurisdiction of the HBRC. The rules in the RRMP of relevance to the RWS Scheme have been discussed in Section 3 of this report.

The following discusses the objectives and policies in the RRMP of relevance to the RWS Scheme, firstly in relation to the RPS objectives and policies, followed by the regional plan objectives and policies. At the outset, it should be noted that the objectives and policies in the RRMP mostly relate to the whole of the Hawke’s Bay Region and, as such, are pitched at a fairly general level. In contrast, Plan Change 6



(PC6) (discussed later in this report), is specific to the Tukituki River catchment (in which the RWS Scheme is proposed) and includes objectives, policies and methods which are far more detailed and directive in terms of the outcomes sought to be achieved within the catchment. Furthermore, (following Change 5 – discussed later in this report) PC6 is the first step that HBRC has taken to give effect to the NPSFM within a catchment identified for priority treatment in the Hawke’s Bay Land and Water Management Strategy (discussed later in this report).

As such, PC6 represents in effect a paradigm shift reflecting the outputs of a collaborative stakeholder derived set of recommendations as to how the NPSFM should be implemented within the Tukituki River catchment. While, it is in its statutory infancy, it is considered that significant weight can be given to PC6 accordingly.

6.5.1 RPS OBJECTIVES AND POLICIES

The relevant objectives and policies in the RPS part of the RRMP (Chapter 3) are discussed below in the order in which they appear in the RRMP and using the corresponding headings in the RRMP.

THE SUSTAINABLE MANAGEMENT OF COASTAL RESOURCES

OBJ 4 Promotion of the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.

OBJ 7 The promotion of the protection of coastal characteristics of special significance to iwi, including waahi tapu, tauranga waka, taonga raranga, mahinga kai and mahinga mataitai.

These two objectives are relevant to the proposed beach nourishment. The latter is proposed as a mitigation measure to address the effects of the predicted deficit in the amount of sediment that will be transported to the Coastal Marine Area, and any resulting effect on the beaches to the north and south of the mouth of the Tukituki River, due to the construction of the Makaroro Dam.

The beach nourishment aspect of the RWS Scheme is not considered to be an ‘inappropriate’ form of development (referred to in OBJ 4), particularly given the provisions in the Regional Coastal Environment Plan (discussed in Section 6.6 below) which recognise and provide for such activities. The purpose of the proposed beach nourishment is to ensure that the natural character of the beaches to the north and south of the mouth of the Tukituki River is preserved (in this case by compensating for the deficit in the amount of sediment transportation and deposition that would otherwise naturally occur in the absence of the proposed Makaroro Dam).

As a consequence of addressing the physical effect on the beaches, it is anticipated that the coastal characteristics of special significance to iwi (referred to in OBJ 7) will be protected.

Following the objectives relating to the ‘Sustainable Management of Coastal Resources’, the RRMP states:

There are no specific policies relating to the coastal environment part of this Plan, although provisions within the Regional Policy Statement parts of this Plan do apply within the coastal environment. Specific regional plan provisions (including policies) for the coastal environment are contained within the Regional Coastal Environment Plan.

The relevant provisions of the Regional Coastal Environment Plan are discussed later in this report.



LOSS AND DEGRADATION OF SOIL

OBJ 14 *The avoidance of loss in the productive capability of land, as a result of reduced soil health.*

The inundation of land associated with the formation of the reservoir behind the proposed Makaroro Dam will reduce the health of the soils and (by virtue of the inundation alone) will result in a loss in the productive capability of that land. This loss of land within the reservoir footprint on its own would be contrary to OBJ 14 but is more than offset by the resulting ability to provide a water supply (primarily for irrigation purposes) which will facilitate a significant increase in the productive capability of land on the Ruataniwha Plains. In other words, the small loss of productive land associated with the reservoir will be off-set by an increase in the productive capability of a significantly greater area of land.

SCARCITY OF INDIGENOUS VEGETATION AND WETLANDS

OBJ 15 *The preservation and enhancement of remaining areas of significant indigenous vegetation, significant habitats of indigenous fauna and ecologically significant wetlands.*

The effects of the RWS Scheme on significant indigenous vegetation and significant habitats of indigenous fauna have been addressed in the report 'Ruataniwha Water Storage Scheme – Terrestrial Ecology Study Assessment of Ecological Effects (Kessels & Associates (May 2013)). A total of 182.52 ha of ecologically significant indigenous vegetation and habitats would be flooded by the proposed reservoir, or covered over by infrastructure associated with the RWS Scheme which (on its own) would be contrary to the above objective.

To address this effect of the RWS Scheme on indigenous vegetation and habitat, a range of mitigation measures have been proposed as set out in HBRIC (May 2013f).

The only policy in relation to 'Scarcity of Indigenous Vegetation and Wetlands' relates to the use on non-regulatory methods (these being actions for HBRC rather than matters to be considered as part of a resource consent application).

EFFECTS OF CONFLICTING LAND USE ACTIVITIES

OBJ 16 *For future activities, the avoidance or mitigation of nuisance effects arising from the location of conflicting land use activities.*

No conflicts arising from nuisance effects are anticipated to be associated with the RWS Scheme for the following reasons:

- the fairly remote location of the proposed Makaroro Dam;
- the distance between the various elements of the RWS Scheme and residential activities;
- the anticipated involvement and/or co-operation of the land owners in the vicinity of the various elements of the RWS Scheme; and
- the proposed conditions of consent addressing nuisance effects such as noise, dust, and odour.

GROUNDWATER QUALITY

OBJ 21 *No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.*

OBJ 22 *The maintenance or enhancement of groundwater quality in unconfined or semi-confined productive aquifers in order that it is suitable for human consumption and*



irrigation without treatment, or after treatment where this is necessary because of the natural water quality.

Objective 21 is expressed in absolute terms requiring no degradation of existing groundwater quality in the Ruataniwha Plains aquifer systems. Objective 22 is expressed in positive terms essentially seeking the same or a better outcome.

These objectives are relevant to the RWS Scheme on the basis that increased irrigation will facilitate an intensification of productive land use which is predicted to result in an increase in the leaching of nitrate-nitrogen into groundwater, but to be managed within (in-stream) surface water limits set through PC6.

The explanation to these objectives in the RRMP specifically discusses the issues in relation to the Ruataniwha Plains including the potential for contamination from a range of activities including irrigation.

As part of the achievement of the above objectives, Policy 16 proposes to regulate activities involving discharges onto or into land on the Ruataniwha Plains. Policy 19 is particularly relevant to the application for the use of production land associated with the RWS Scheme. It states:

To minimise the leaching of nutrients to groundwater by ensuring that the combined hydraulic loading rates from agricultural effluent disposal and freshwater pasture irrigation do not exceed the capacity of the soil.

PC6 (discussed below) sets out more specific objectives, policies and methods that address the way in which the leaching of nutrients is to be managed in the Tukituki catchment, such that while involving some increase in nitrate-nitrogen within groundwater, specific catchment based water quality objectives are met.

GROUNDWATER QUANTITY

OBJ 23 *The avoidance of any significant adverse effects of water takes on the long-term quantity of groundwater in aquifers and on surface water resources.*

OBJ 24 *The avoidance or remedy of any significant adverse effects of water takes on the operation of existing lawful efficient groundwater takes.*

The explanation to the above objectives states (in part):

Groundwater is a critical resource in Hawke's Bay. Groundwater is the main source of water for Napier, Hastings and the Heretaunga Plains, as well as areas of the Ruataniwha Plains in Central Hawke's Bay. Plentiful supplies of good quality groundwater are therefore essential to sustain irrigation, industrial and domestic water supplies in the region.

The RWS Scheme involves the storage and controlled release of surface water with a specific purpose of relieving the pressure placed by existing groundwater takes on ground and surface water resources within the Tukituki River catchment. It will be a requirement of the RWS Scheme that the number of days on which the new minimum flow requirements (set through PC6) are not met do not increase as a result of the RWS Scheme. As such, the RWS Scheme is considered to be consistent with the objectives above.

An aspect of the RWS Scheme is the ability to supply water to holders of existing groundwater takes. This is to provide an alternative and more reliable source of water for these existing consent holders. In those circumstances, there will be no adverse effect on the consent holders of existing groundwater



takes. This will also have the benefit of reducing the amount of water taken from groundwater sources with consequential benefits in terms of aquifer storage.

SURFACE WATER RESOURCES

Surface Water Quantity

OBJ 25 *The maintenance of the water quantity of the rivers and lakes in order that it is suitable for sustaining aquatic ecosystems in catchments as a whole and ensuring resource availability for a variety of purposes across the region, while recognising the impact caused by climatic fluctuations in Hawke's Bay.*

OBJ 26 *The avoidance of any significant adverse effects of water takes, uses, damming or diversion on lawfully established activities in surface water bodies.*

Surface Water Quality

OBJ 27 *The maintenance or enhancement of the water quality of rivers, lakes and wetlands in order that it is suitable for sustaining or improving aquatic ecosystems in catchments as a whole, and for contact recreation purposes where appropriate.*

The comments made above in relation to the groundwater objectives are applicable to the objectives above in relation to surface water.

The explanation to the three objectives above is particularly relevant to, and sought to be addressed by, the RWS Scheme. The first two paragraphs of the explanation state:

River flows vary continuously, and aquatic biota and human demands on water can cope with this variability most of the time. However, droughts are common in Hawke's Bay owing to the climate of the area (see also Issue 3.12), and can have immense impacts. At the time of writing this Plan, there were approximately 390 resource consents to take and use surface water from rivers and streams in the Hawke's Bay region. In almost all cases the consent holder is subject to a minimum flow restriction. This means that the consent holder must cease taking water from the river or stream once a pre-established minimum flow is reached. The prescribed minimum flow is the flow at which adequate habitat is available for existing aquatic ecosystems under natural conditions. Controlling takes so that flow is not reduced artificially below minimum flow ensures habitat availability is maintained while acknowledging that habitat availability will reduce as a river naturally falls below the minimum flow.

The demand for water is rising, particularly as a result of increasing crop and pasture irrigation. If water is taken and used inefficiently, problems during summer droughts are exacerbated. The demand for surface water needs to be managed in a manner which ensures that water availability is maintained and water is allocated fairly, the impact of droughts is minimised, and economic development is not unnecessarily curtailed.

Following the above objectives, the RRMP includes policies that focus on managing the effects (including cumulative effects) of water takes and the damming and diversion of surface water (see Policies 35 and 38). Policy 37(a) states:

To manage takes from those rivers listed in Table 9 of this Plan in accordance with the minimum flows and associated allocatable volumes set out in that table.

Table 9 (referred to in Policy 37(a) above) includes rivers and streams affected by the RWS Scheme, however PC6 (discussed below) proposes that these rivers and streams be deleted from Table 9. This is on the basis that PC6 provides an updated and more comprehensive management regime in relation to minimum flows and allocation limits in relation to the rivers in the Tukituki catchment.



Policy 39 sets out the approach to be taken in relation to the allocations of water including a cross reference to Policy 42 specifically relating to the irrigation takes. Policy 42 states:

To allocate surface water for irrigation purposes on the basis of actual crop water requirements up to a maximum equal to that required during a one in five year drought. The allocation assessment will take into account information on crop type, rainfall, potential evapotranspiration rates, and best irrigation management practices. The allocation assessment may also have regard to soil type and moisture holding capacity.

This section of the RRMP also includes policies in relation to discharges to surface water including animal effluent disposal and stormwater discharges. Of particular relevance in this regard, Policy 47 states that activities affecting the quality of water in rivers will be managed in accordance with the environmental guidelines and implementation approaches set out in Chapter 5 of the RRMP (discussed below).

A substantial body of technical work has been undertaken in relation to flow regimes and water quality issues as part of the development and investigations associated with the RWS Scheme. A key element of the RWS Scheme is a proposed flow management regime (described in the Project Description) which includes a minimum flow out of the Makaroro Dam and flushing flows which will result in both a more consistent flow of water in the rivers downstream of the dam and an improvement in aspects of water quality (including reducing the incidence of excessive periphyton biomass).

The winter harvesting and storage ability conferred by the RWS Scheme is a crucial element of the regional strategy for ensuring that improved minimum flows better sustain aquatic life within the Tukituki River.

The manner in which surface water quantity and quality issues are to be addressed in the Tukituki catchment are discussed in more detail below in relation to PC6.

RIVER BED GRAVEL EXTRACTION

OBJ 28 *The avoidance of any gravel extraction at a rate which exceeds the rate of natural supply, except in areas where there are stored reserves which may be removed in a controlled manner such that flood protection and river control assets are not compromised.*

OBJ 29 *The facilitation of gravel extraction from areas where it is desirable to extract excess gravel for river management purposes and the minimisation of flood risk, or to maintain or protect the functional integrity of existing structures, whilst ensuring that any adverse effects of gravel extraction activities are avoided, remedied or mitigated.*

OBJ 30 *The maintenance of the use and values of the beds of rivers and the avoidance of any significant adverse effects on the river bed resulting from the extraction of gravel.*

The proposed gravel extraction associated with the RWS Scheme (post construction associated with intake structure maintenance for example) falls within the ambit of Objective 29 whereby the purpose of the proposed gravel extraction is to maintain or protect the functional integrity of structures associated with the RWS Scheme. Any gravel extraction undertaken as part of the RWS Scheme will also be consistent with Objectives 28 and 30.

The policies that follow the three objectives above focus on assessing the availability of river bed gravel (Policy 50) and the manner in which rights to extract river bed gravel will be allocated (Policy 51). In this regard, Policy 51 sets out the gravel extraction allocation process which is undertaken on an annual basis. This is why (as explained in Section 4.4 of this report) no application is being made at present for



gravel extraction associated with the proposed beach nourishment to the north and south of the mouth of the Tukituki River.

NATURAL HAZARDS

OBJ 31 *The avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood.*

The safety of the proposed Makaroro Dam is a critical part of the design process (particularly in relation to the potential effects of an earthquake). A Dam Break Analysis Report has been prepared (HBRC Engineering May 2013).

The Dam Break Analysis identifies the consequences of a failure of the Dam during its operational phase. It is emphasised that the dam break analysis is entirely hypothetical and divorced from the actual probability of a dam failure occurring, and is not instigated by any particular concern with the conditions at the dam site or the proposed concept in the construction of the dam.

The dam break analysis is used to assist in determining the Potential Impact Category (PIC) of the dam, based on an assessment of the potential downstream effects in terms of potential loss of life, as well as damage to infrastructure in the event of a dam failure. The results of this analysis indicate the proposed dam will be a High PIC dam.

In addition to minimum standards for design, a High PIC dam will require an appropriate Dam Safety Assurance Programme (DSAP) under New Zealand's Dam Safety Regulations. Part of the DSAP will be an Emergency Action Plan (EAP) that will detail the actions that the owner, operations personnel and relevant Government and Local Authorities should take if an incident or emergency develops that threatens the safety of the dam. Both the DSAP and EAP will be required prior to commissioning of the dam.

The Application Design described in the Project Description incorporates a number of conservative design assumptions to account for the assessed level of seismic risk including active and secondary faulting, and was concluded with the benefit of peer reviews being undertaken by two of New Zealand's leading dam design geotechnical experts.

It is noted that the proposed Makaroro Dam will also be the subject of a Building Permit application process following detailed design and prior to construction.¹⁵

MAINTENANCE AND ENHANCEMENT OF PHYSICAL INFRASTRUCTURE

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.*

The RWS Scheme is consistent with the two objectives above. The various elements of the RWS Scheme are a form of physical infrastructure that will support the economic, social and/or cultural wellbeing of the region's people and communities, particularly due to the increase in the productive use of rural land that will be made possible by irrigation through increased security of water supply. The safety of people and communities will be achieved by way appropriate design and construction of the various structures,

¹⁵ A process administered by the Waikato Regional Council on behalf of all regional councils throughout New Zealand.

particularly the proposed Makaroro Dam. The key elements of the RWS Scheme (i.e. the dam, water intake structures and water outfall structures) have specific locational requirements which mean they need to be located on and/or immediately adjacent to rivers.

RECOGNITION OF MATTERS OF SIGNIFICANCE TO IWI/HAPU

OBJ 34 *To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions.*

OBJ 35 *To consult with Maori in a manner that creates effective resource management outcomes.*

OBJ 36 *To protect and where necessary aid the preservation of waahi tapu (sacred places), and tauranga waka (landings for waka).*

OBJ 37 *To protect and where necessary aid the preservation of mahinga kai (food cultivation areas), mahinga mataitai (sea-food gathering places), taonga raranga (plants used for weaving and resources used for traditional crafts) and taonga rongoa (medicinal plants, herbs and resource).*

HBRC has sought to develop the RWS Scheme in a manner which is consistent with the above objectives (and the associated policies which provide more detail in relation to the matters addressed in the objectives). This has largely been through processes of stakeholder consultation including with representatives of tangata whenua which are described in the AEE (see Part C) and the Mana Whenua Working Party Report (EMS (May 2013b)). A Cultural Impact Assessment has also been undertaken (Taiwhenua o Tamatea & Taiwhenua o Heretaunga (June 2012)).

As noted in Section 3 of this report, within the Central Hawke's Bay District (in which all the proposed structures associated with the current applications for the RWS Scheme are located), Sites of Cultural Significance to Tangata Whenua are identified in Appendix C of the CHBDP and on the Planning Maps. As previously noted, none of those sites are affected by the RWS Scheme.

On the basis of the above, and the conclusions reached in the reports referred to above, the RWS Scheme has been developed and advanced in a manner which is consistent with the above objectives (and the associated policies).

6.5.2 REGIONAL PLAN OBJECTIVES AND POLICIES

The relevant objectives and policies in the Regional Plan part of the RRMP (Chapter 5) are discussed below in the order in which they appear in the RRMP and using the corresponding headings in the RRMP.

PC6 (discussed below) has made a substantial number of 'consequential' changes to the objectives, policies and methods in Chapter 5 of the RRMP. Normal planning practice is to consider the provisions of the operative and proposed documents (and attribute a relative weighting where there are conflicting provisions). However, this is problematic in the current circumstances with PC6 intending to replace or amend existing provisions (to the extent they relate to the Tukituki catchment) and provide new more detailed planning provisions. In some instances, PC6 simply makes it clear that sections in Chapter 5 do not apply to the Tukituki catchment.¹⁶ If PC6 is applied then, the net result is that the corresponding sections of the RRMP have no application.

¹⁶ E.g. Section 5.4 Surface Water Quality and Section 5.5 Surface Water Quantity.

A legal and planning principle of interpretation (in relation to planning documents) and the weight to be applied to any particular provision, is that the more recent 'specific' provision overrides the 'general'. Accordingly, in contrast to the more generic 'region-wide' objectives and policies in the RRMP, PC6 presents a more detailed and focused set of planning provisions which are specific to the Tukituki catchment.

For the sake of completeness however, the following discussion nevertheless includes an analysis of the operative RRMP provisions in their unamended form.

LAND

OBJ 38 *The sustainable management of the land resource so as to avoid compromising future use and water quality.*

The RWS Scheme has been developed in order to assist with the sustainable management of the land resource (particularly in terms of improving the productivity of the Ruataniwha Plains) and in a manner which comprehensively addresses existing and potential water quality issues.

This matter is discussed in more detail below in relation to PC5 and PC6.

AIR QUALITY

OBJ 39a *A standard of local air quality is maintained that is not detrimental to human health, amenity values or the life supporting capacity of air.*

OBJ 39c *In the balance of the region outside the Napier, Hastings, Awatoto and Whirinaki Airsheds, the ambient air quality shall be managed to ensure the concentration of PM10 does not exceed 50 µg/m³ (24 hour average), more than once in any 12 month period.*

Any discharges to air will be associated with construction activities. They will be temporary and occur in rural areas which are mostly well separated from sensitive adjoining land uses (e.g. dwellings) and well outside any of the specified Airsheds. Conditions of consent (see Part D) are proposed which specifically address air quality issues (e.g. the control of dust) in a manner that is consistent with the two objectives above (and the policies which follow the above objectives).

SURFACE WATER QUALITY

OBJ 40 *The maintenance of the water quality of specific rivers in order that the existing species and natural character are sustained, while providing for resource availability for a variety of purposes, including groundwater recharge.*

The RWS Scheme has been designed to address the matters in Objective 40 above, but not in the way in which the policies that follow the objective specify. It is noted however, that PC6 seeks to include a statement that Chapter 5.4 Surface Water Quality (including the above objective) does not apply within the Tukituki River catchment. The new provisions relating to surface water quality in PC6 are discussed later in this report.

SURFACE WATER QUANTITY

OBJ 41 *The maintenance of the water quantity of specific rivers in order that the existing aquatic species and the natural character are sustained, while providing for resource availability for a variety of purposes, including groundwater recharge.*

As above in relation to the topic of water quality, the RWS Scheme has been designed to address the matters in Objective 41 above, but not in the way in which the policies that follow the objective specify. It is noted however, that PC6 seeks to include a statement that Chapter 5.5 Surface Water Quantity



(including the above objective) does not apply within the Tukituki River catchment. The new provisions relating to surface water quantity in PC6 are discussed later in this report.

GROUNDWATER QUALITY

OBJ 43 *Subject to Objective LW1 and OBJ TT3, groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems and in unconfined or semi-confined productive aquifers is suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of the natural water quality.¹⁷*

The matters addressed in Objective 43 are addressed in the proposed conditions (as discussed above in relation to the NES on Human Drinking Water). On that basis, the RWS Scheme will be consistent with the above objective.

GROUNDWATER QUANTITY

OBJ 44 *The maintenance of a sustainable groundwater resource.*

The policies seeking to achieve the above objectives either explicitly exclude the Tukituki catchment or cross reference to the relevant provisions in PC6.

BEDS OF RIVER AND LAKES

OBJ 45 *The maintenance or enhancement of the natural and physical resources, and use and values, of the beds of rivers and lakes within the region as a whole.*

The construction of a dam and other structures associated with the supply of water (primarily for irrigation purposes) is one of the 'use and values' associated with the surface water bodies in the Hawke's Bay Region including the Tukituki catchment.¹⁸

One of the policies (Policy 79) following the above objective sets out a series of guidelines in relation to activities in the beds of rivers and lakes. These matters have been addressed in the various technical reports appended to the AEE.

Policy 80A was inserted into the RRMP on 1 July 2011 (and took effect on that date) in accordance with the direction stated in Policy B7 of the NPSFM. It states:

When considering any application the consent authority must have regard to the following matters:

- (a) the extent to which the change would adversely affect safeguarding the life-supporting capacity of fresh water and of any associated ecosystem and*
- (b) the extent to which it is feasible and dependable that any adverse effect on the life-supporting capacity of fresh water and of any associated ecosystem resulting from the change would be avoided.*

The effects of the RWS Scheme on matters such as water quality and aquatic ecology have been addressed in the AEE and the relevant technical reports (see NIWA (May 2013b) and Cawthron (May 2013)). These reports provide relevant information so regard can be had to the matters specified in Policy 80A above.

¹⁷ As amended by PC6.

¹⁸ See the discussion below in relation to Policy LW2 in PC5 to the RRMP which sets out a list of values associated with the Tukituki catchment.

6.5.3 PROPOSED CHANGE 4 – MANAGING THE BUILT ENVIRONMENT

Proposed Change 4 (PC4) was publicly notified on 7 December 2011. It has now reached the stage whereby a hearing has been held in relation to the various submissions received but HBRC's decisions on those submissions have yet to be released. On this basis, the notified version of PC4 is relevant at the time of writing this report.

PC4 proposes to introduce new provisions relating to the built environment and infrastructure into the RPS parts of the RRMP. In particular, it assists in the implementation the Heretaunga Plains Urban Development Strategy (HPUDS). HPUDS was jointly developed by the Regional Council, Hastings District Council and Napier City Council, and then adopted by all three councils in August 2010.

PC4 proposes a number of new objectives and policies intended to provide guidance and direction to Hawke's Bay's local authorities when making decisions on urban activities, infrastructure and associated effects. PC4 proposes particular policy direction and guidance to urban development in the Heretaunga Plains sub-region. Those specific policies are intended embed HPUDS's settlement pattern and principles into the RPS part of the RRMP, which local authorities then have to implement via regional plans and district plans.

Given that the primary focus of PC4 is in relation to urban activities and infrastructure, particularly within the Heretaunga Plains sub-region (which is beyond the Consent Application Areas associated with the RWS Scheme), it has limited relevance to the RWS Scheme.¹⁹ There are, however, several objectives and policies which apply to the whole of the Hawke's Bay Region. The aspects of PC4 that are applicable to the RWS Scheme are as follows.

Objective UD5 is headed 'Integration of Land Use with Significant Infrastructure (Region)' and states:

Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.

The RWS Scheme is entirely consistent with Objective UD5. The RWS Scheme comprises strategic infrastructure. It has been the subject of many years of planning and is proposed to be developed in a manner that integrates with other infrastructure (e.g. roads). The RWS Scheme is also the subject of a proposed funding mechanism.

Method UD6 is headed 'Preparation and Review of Objectives, Policies and Methods in Regional Plans' and states:

Hawke's Bay Regional Council will set out objectives, policies and methods in regional plans which:

...

(g) Enable the development and use of strategic infrastructure while controlling adverse effects of that development and use.

PC6 in relation to the Tukituki River catchment (discussed below) is an example of HBRC implementing Method UD6.

¹⁹ PC4 helpfully includes a geographical applicability of each of the objectives and policies in brackets at the end of the heading of each objective and policy. Most of them relate to the 'HERETAUNGA PLAINS SUB-REGION', however, some are identified as 'REGION' meaning they apply to the whole of the Hawke's Bay Region.

6.5.4 PROPOSED CHANGE 5 – LAND USE AND FRESHWATER MANAGEMENT

Proposed Change 5 (PC5) was publicly notified on 2 October 2012. It has now reached the stage whereby the periods for submissions and further submissions have closed and a hearing is scheduled in April and/or May 2013. On this basis, the notified version of PC5 is relevant at the time of writing this report.

PC5 proposes to introduce new provisions relating to the integrated management of water and land into the RPS parts of the RRMP, in order to give effect to the NPSFM. The provisions of PC5 are of particular relevance to the RWS Scheme as they set out the overarching approach to the integrated management of water and land resources with a focus on a catchment based approach including specifically in relation to the Tukituki River catchment.

PC5 introduces a new objective (LW1) which is directly relevant to the RWS Scheme. Objective LW1 states:

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

The management of fresh water and land use and development in an integrated and sustainable manner that:

- 1. identifies outstanding freshwater bodies in Hawke's Bay region and protects their water quality;*
- 2. specifies targets and implements methods to assist improvement of water quality in catchments to meet those targets within specified timeframes;*
- 3. recognises that land uses, freshwater quality and surface water flows can impact on the receiving coastal environment;*
- 4. safeguards the life-supporting capacity and ecosystems of fresh water with a priority for indigenous species;*
- 5. recognises the significant national and regional value of fresh water for human drinking and animal drinking uses;*
- 6. recognises the significant regional and national value of fresh water use for beverages, food and fibre production and processing;*
- 7. recognises the potential for significant regional and national value arising from the non-consumptive use of water for renewable electricity generation;*
- 8. promotes and enables the adoption of good land and water management practices;*
- 9. ensures efficient allocation and use of water;*
- 10. recognises and provides 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; and*
- 11. recognises the differing demands and pressures on freshwater resources within catchments across the Hawke's Bay region, and where significant conflict exists between competing values, the regional policy statement and regional plans provide clear priorities for the protection or use of those freshwater resources.*

Policy LW1 focuses on a 'whole-of-catchment' approach to managing fresh water and land use development. Of particular relevance to the RWS Scheme, Policy LW1 includes the following (amongst a list of 11 outcomes):



- k) enables water storage infrastructure which can provide increased security for water users in water-scarce catchments while avoiding, remedying or mitigating adverse effects on freshwater values.

Policy LW2 sets out a list of primary and secondary values associated with three catchments including the Tukituki catchment, in relation to which the following values are identified (in Table 1 of Policy LW2):

TABLE 1:

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
Tukituki Catchment Area	<ul style="list-style-type: none"> • Industrial & commercial water supply • Native fish and trout habitat • Urban water supply for towns and settlements • Water use associated with maintaining or enhancing land-based primary production 	<ul style="list-style-type: none"> • Aggregate supply and extraction in lower Tukituki River • Amenity for contact recreation (including swimming) in lower Tukituki River. • Recreational trout angling in: <ul style="list-style-type: none"> ○ middle Tukituki River and tributaries between SH50 and Tapairu Road; & ○ middle Waipawa River and tributaries between SH50 and SH2.

Policy LW2 requires that the fresh water bodies in the Tukituki catchment be managed in a manner that:

- a) recognises and gives priority to maintaining and enhancing primary values and uses identified in Table 1; and
- b) avoids, as far as is reasonably practicable, significant adverse effects on secondary values and uses identified in Table 1; and
- c) uses a catchment-based process in accordance with POL LW1 to evaluate and determine the appropriate balance between any conflicting primary values and uses in Table 1.

The manner in which the RWS Scheme has been developed and advanced in parallel with PC6 (discussed below) is entirely consistent with the overarching policy direction in PC5 discussed above. Water storage and the use of that water for maintaining or enhancing land-based primary production are explicitly recognised and provided for as part of the relevant objectives and policies. The manner in which the various values associated with the Tukituki River catchment are to managed is the subject matter of PC6.

6.5.5 PROPOSED CHANGE 6 – TUKITUKI CATCHMENT

Proposed Change 6 (PC6) inserts new sections in Chapters 5 (5.9) and 6 (6.9) of the RRMP relating to the Tukituki River Catchment within which the RWS Scheme is proposed to be located. It is the first of a number of catchment specific plan changes for the Hawke’s Bay Region which seek to implement and give effect to the NPSFM, as well as address specific water allocation and water quality issues in the catchment.

PC6 amounts to some 80 pages of planning provisions and/or amendments to existing provisions in the RRMP, much of which is relevant to the RWS Scheme. However, only the particularly relevant aspects



of PC6 are reproduced (for ease of reference) below. The following therefore needs to be read in conjunction with a complete version of PC6.

PC6 introduces five objectives in relation to the management of fresh waterbodies within the Tukituki River Catchment. Given the importance and relevance of these five objectives to the RWS Scheme, they are set out in full as follows:

- TT1 To sustainably manage the use and development of land, the discharge of contaminants, and the taking, using, damming, or diverting of fresh water in the Tukituki catchment so that:*
- (a) River flows and water quality maintain or enhance the habitat and health of macroinvertebrates, native fish and trout;*
 - (b) Water quality enables safe contact recreation;*
 - (c) There are fewer occurrences of excessive periphyton growths that adversely affect recreational use and amenity;*
 - (d) The significant values of natural wetlands are protected;*
 - (e) The mauri of surface water bodies and groundwater is recognised and adverse effects on aspects of water quality and quantity that contribute to mauri are avoided, remedied or mitigated.*
- TT2 Where the quality of fresh water has been degraded by human activities to such an extent that Objective TT1 is not being achieved, to improve its quality over time.*
- TT3 To ensure that:*
- (a) As a first priority land use activities and discharges to land do not cause groundwater quality to degrade to the extent that it is unsuitable for domestic and stock water drinking purposes, or*
 - (b) Alternatively if such degradation does occur, the water supplies of the affected people and communities are treated to an appropriate standard for the uses being made of the water or alternative potable water supplies are provided.*
- TT4 In recognition that the security of supply for existing surface water irrigation takes is low, to avoid any further allocation of surface water and groundwater to individual consented abstractors and not reallocate water that is freed up through the surrender or non-renewal of individuals' existing surface water and groundwater take consents.²⁰*
- TT5 Subject to Objectives TT1 to TT3, to enable the development of Community Irrigation Schemes²¹ that improve and maximise the efficient allocation and efficient use of water.*

The above objectives put in place a strong policy regime seeking to sustainably manage the fresh water resources within the Tukituki River catchment to give effect to the NPSFM. Objective TT5 is to enable Community Irrigation Schemes such as the proposed RWS Scheme, subject to the outcomes in Objectives TT1 and TT3 being achieved.

Following the above objectives, PC6 sets out 15 policies which specify the manner in which the objectives are to be achieved. Of relevance to the RWS Scheme, this includes the setting of limits and targets in relation to nitrate-nitrogen, dissolved reactive phosphorus, periphyton biomass, and

²⁰ This does not preclude the transfer of existing takes.

²¹ References to Community Irrigation Scheme in chapter 5.9 of the RRMP means a water supply system that is capable of supplying irrigation water to at least 5,000 hectares of land.

Escherichia coli. The policies also identify environmental state indicators²² for the Macroinvertebrate Community Index (MCI), Visual Water Clarity and Deposited Sediment. The policies also establish minimum flow and allocation limits, management regimes for groundwater and surface water interaction, provide for Community Irrigation Schemes, and set water measuring and reporting requirements.

The manner in which the RWS Scheme addresses the requirements set out in the objectives and policies in PC6 is the subject matter of a number of technical reports appended to Part C – Assessment of Environmental Effects as follows.

Ref. No.	Document Descriptor	Short Document Reference
M1	Ground and Surface Water Flow Modelling	HBRC Science (May 2013a)
M2	Overseer® Nutrient Budget Modelling	AgResearch (May 2013)
M3	Stream Modelling (TRIM-2 Calibration)	NIWA (May 2013a)
M4	Stream Modelling (TRIM-2 Scenario Modelling)	NIWA (May 2013b)
M5	Groundwater Drinking Water Modelling	HBRC Science (May 2013b)
A2	Reservoir Water Quality Assessment	NIWA (May 2013c)
A3	Aquatic Ecology Assessment	Cawthron (May 2013)
A5	Cultural Impact Assessment	Taiwhenua o Tamatea & Taiwhenua o Heretaunga (June 2012)

The key aspects of the RWS Scheme which are intended to address the objectives and policies in PC6 are as follows:

- A proposed flow management regime (described in the Project Description) which includes a minimum flow out of the Makaroro Dam and flushing flows which will result in both a more consistent flow of water in the rivers downstream of the dam and an improvement in aspects of water quality (including reducing the incidence of periphyton biomass).
- Monitoring and management of water quality in the reservoir.
- The management of uses of land authorised by the consents in a manner that:
 - does not cause specified in-river nitrate-nitrogen concentration limits to be exceeded at any of the specified monitoring locations;
 - does not cause a net increase of Dissolved Reactive Phosphorous (DRP) reaching waterways compared to the existing discharges of DRP to surface waters as at 6 May 2013 modelled as the Pre-irrigation Scenario in the NIWA TRIM 2 Modelling Report (NIWA (May 2013b)); and

²² “Indicators” define what the state of certain water quality parameters should be in order to safeguard the life supporting capacity of the water body but they are not “limits” or “targets”. The “indicators” stated will be used by Hawke’s Bay Regional Council to monitor the effectiveness of the RRMP in achieving the purpose of the RMA in the Tukituki River catchment.



- does not cause the water quality limits for E.coli in surface and groundwater specified in PC6 to be exceeded.
- The preparation of:
 - a Groundwater Monitoring Plan (GMP);
 - an Irrigation Environmental Management Plan (IEMP);
 - Farm Environmental Management Plans (FEMPs); and
 - an On-Farm Monitoring Plan.
- Farm Environmental Management Plan Audits.
- Contractual arrangements between the consent holder and recipients of water from the RWS Scheme.

The key outcomes to be achieved in accordance with the objectives and policies in PC6 are also the subject of proposed consent conditions (see Part D – Proposed Conditions).

COMMUNITY IRRIGATION SCHEMES

Of particular relevance to the RWS Scheme, Policy TT13 in PC6 is to enable takes of water for Community Irrigation Schemes capable of providing irrigation water to at least 5,000 hectares of production land provided that the management of the take and the management of the Scheme addresses a range of specified matters. Those matters are discussed as follows.

Policy TT13: Enabling takes for Community Irrigation Schemes capable of providing irrigation water to at least 5,000 hectares of production land provided that the management of the take and the management of the Scheme:	Addressed by the RWS Project as follows:
(a) Demonstrates how the supply of irrigation water and the resulting use of irrigated land will meet the limits and targets set by POL TT1 and POL TT2;	<ul style="list-style-type: none"> ▪ The ability to meet the PC6 minimum flows set to maintain habitat and fauna health will be enhanced by the RWS Scheme. ▪ Flushing flows and proposed phosphorus management will reduce periphyton growth. ▪ Overall improvements in water quantity and quality are expected to result in an improvement in the mauri of the water.
(b) Does not increase the number of days that downstream takes will be required to cease abstraction (or reduce their rate of take) as a result of Hawke’s Bay Regional Council implementing POL TT9(1)(f);	<ul style="list-style-type: none"> ▪ The proposed conditions of consent ensure that there will be no increase in the number days that the new minimum flow requirements are not met as a result of the RWS Scheme.
(c) Provides water for future irrigation demand at a security of supply described in POL TT8(1)(a), taking into account the effects of climate change;	<ul style="list-style-type: none"> ▪ The proposed conditions of consent ensure that there will be no increase in the number days that the new minimum flow requirements are not met as a result of the RWS Scheme.
(d) Ensures that water is available at a rate and quality	<ul style="list-style-type: none"> ▪ This is a requirement of the proposed conditions



<p>sufficient to meet the domestic and stock water needs of any properties whose existing water supply is rendered unsuitable for human or animal drinking as a result of the implementation of the Community Irrigation Scheme, or alternatively ensures affected water supplies are appropriately treated;</p>	<p>(see Part D – Proposed Conditions, Schedule 3).</p>
<p>(e) Demonstrates industry good practice for irrigation scheme efficiency;</p>	<ul style="list-style-type: none"> ▪ This will be achieved through the requirements of the Farm Environmental Management Plans that must meet objectives of irrigation system and nutrient use efficiency. ▪ This is a requirement of the proposed conditions (see Part D – Proposed Conditions, Schedule 3).
<p>(f) Maintains or enhances terrestrial riparian biodiversity and surface water recreational opportunities within the catchment;</p>	<ul style="list-style-type: none"> ▪ These requirements are addressed by the ‘Ruataniwha Water Storage Scheme –Proposed Integrated Mitigation and Offset Approach’ (HBRIC (May 2013f)) which must be progressively implemented through the proposed conditions of consent (see Part D – Proposed Conditions). ▪ Stock exclusion from waterbodies. ▪ Reduction of periphyton as a result of flushing flows and proposed phosphorus management will enhance the amenity and recreational opportunities in the lower Waipawa and Tukituki Rivers.
<p>(g) Avoids, remedies or mitigates adverse effects on aspects of water quality and quantity that contribute to mauri in rivers and streams affected by the operation of the Community Irrigation Scheme.</p>	<ul style="list-style-type: none"> ▪ Overall improvements in water quantity, riparian and in-stream habitat, stock exclusion from waterbodies, and reduction in periphyton growth are expected to result in an improvement in the mauri of the water.

USE OF PRODUCTION LAND

The other aspect of the policies in PC6 of particular relevance to the RWS Scheme is Policy TT6.2 which sets out the criteria that apply to an application for the use of production land on multiple properties associated with the operation of a Community Irrigation Scheme as follows.

<p>Policy TT6.2:</p> <p>When considering an application for a land use consent to authorise use of production land on multiple properties associated with the operation of a Community Irrigation Scheme, the consent authority must have regard to the extent to which management plan and/or contractual mechanisms governing the Scheme’s operation ensure that:</p>	<p>Addressed by the RWS Project as follows:</p>
<p>(a) In each respective Water Management Zone, the properties serviced by the Scheme will not collectively leach an amount of nitrogen that, in combination with nitrogen leached from non-Scheme properties as a result of production land use activities</p>	<ul style="list-style-type: none"> ▪ This outcome is addressed in Part D – Proposed Conditions. Specifically, where measurements exceed 80% of the in-stream limits and this is shown



<p>permitted by this Plan or authorised by consents already granted, cause the nitrate-nitrogen limits in Table 5.9.1B to be exceeded;</p>	<p>to be caused by the RWS Scheme, amendments will be required to Farm Environmental Management Plans to ensure that combined nitrogen leaching does not cause the limits to be exceeded.</p>
<p>(b) Where the property is in Water Management Zone 5, appropriate riparian management and wetland enhancement measures are implemented to minimise nutrient losses and reduce macrophyte growth in order to improve the life-supporting capacity of the river or stream</p>	<ul style="list-style-type: none"> ▪ This outcome is addressed in Part D – Proposed Conditions.
<p>(c) In each respective Water Management Zone, the properties serviced by the Scheme will collectively:</p> <p>(i) In Water Management Zones where the Table 5.9.1B DRP concentration targets are exceeded, not cause DRP concentrations in the Tukituki River or its tributaries to increase compared with a baseline measured or modelled at the time of any resource consent application;</p> <p>(ii) In Water Management Zones where the Table 5.9.1B DRP concentration limits are not exceeded, not cause those limits to be exceeded;</p>	<ul style="list-style-type: none"> ▪ This outcome is addressed in Part D – Proposed Conditions. Specifically, activities authorised by the relevant consents must be managed such that they do not cause a net increase in DRP reaching waterways compared with the modelled current land use scenario as at 6 May 2013 in NIWA (May 2013a).
<p>(d) Any property serviced by the Scheme prepares and maintains a Farm Environmental Management Plan prepared in accordance with Schedule XXII and that:</p> <p>(i) Adequately describes the property (including soils, climate, topography and environmental risks) and the proposed land use on the property;</p> <p>(ii) Contains a Nutrient Budget for the property, including an assessment of the nitrogen conversion efficiency;</p> <p>(iii) Describes how industry good practices will be implemented to minimise nutrient (nitrogen and phosphorus) losses, sediment losses and faecal bacteria discharges from the property and achieve a nitrogen conversion efficiency appropriate to the land use and land type;</p>	<ul style="list-style-type: none"> ▪ This will be a contractual requirement of all participants in the Scheme in accordance with the proposed conditions (see Part D – Proposed Conditions, Schedule 3).
<p>(e) Any property serviced by the Scheme is operated in accordance with its Farm Environmental Management Plan;</p>	<ul style="list-style-type: none"> ▪ This will be a contractual requirement of all participants in the Scheme in accordance with the proposed conditions (see Part D – Proposed Conditions, Schedule 3).
<p>(f) Scheme-wide nutrient loss compliance modelling, auditing and enforcement procedures are implemented for nitrogen and phosphorus.</p>	<ul style="list-style-type: none"> ▪ This will be a contractual requirement of all participants in the Scheme in accordance with the proposed conditions (see Part D – Proposed Conditions, Schedule 3).



Of relevance to the applications for the RWS Scheme for activities within the administrative jurisdiction of the HBRC, Policy TT14 includes following statement:

- (d) *From [date of PC notification] the taking of water for a Community Irrigation Scheme capable of providing irrigation water to at least 5,000 hectares of production land shall be a Discretionary Activity under Rule 55 and if granted the consent duration should reflect the capital investment required for the Scheme and may be up to 35 years;*

On the topic of land use consent duration, Policy TT6.3 states:

From [date of PC notification] any land use consents granted under Rule TT2 to the landowner or occupier shall have the same expiry date as any section 14 water take irrigation consents for the land. If there are no irrigation consents for the land then the maximum duration imposed shall not exceed 35 years.

HBRC is seeking a term of 35 years in relation to all the applications for the RWS Scheme within the administrative jurisdiction of the HBRC.

Policy TT15 sets out the manner in which the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 are to be implemented within the Tukituki catchment. The RWS Scheme will fully comply with the requirements set out in Policy TT15, being the subject of Part D – Proposed Conditions.

6.6 HAWKE’S BAY REGIONAL COASTAL ENVIRONMENT PLAN

The objectives and policies in the Hawke’s Bay Regional Coastal Environment Plan (Coastal Plan) are relevant to the proposed beach nourishment to the north and south of the mouth of the Tukituki River.²³ Section 17 of the Coastal Plan specifically addresses ‘disturbances, depositions and extractions’ in the CMA. The relevant objective is as follows:

- Obj 17-3 Adverse effects on the environment associated with the deposition of substances within the coastal marine area are avoided, remedied, or mitigated.*

The relevant policy is as follows:

- Policy 17-1 To manage deposition and extraction of material within the coastal marine area and disturbance of the foreshore and seabed in accordance with the environmental guidelines set out in Table 11.*

Table 11: Environmental Guidelines – Disturbances, Depositions and Extractions in CMA

Issue	Guideline
1. Deposition of material	<i>a) Deposition of substances on the foreshore or seabed within a Significant Conservation Area or adversely affecting known historic heritage is inappropriate and should be avoided.</i>

²³ The relevant provisions in the Hawke’s Bay Regional Coastal Environment Plan are beyond challenge and, on that basis, the corresponding provisions in the operative Regional Coastal Plan do are no longer relevant.

<i>Issue</i>	<i>Guideline</i>
	<p>b) <i>Deposition of substances on the foreshore or seabed not within a Significant Conservation Area may be appropriate where adverse effects on indigenous flora, fauna, benthic organisms and their habitats, are minimised.</i></p> <p>c) <i>Deposition of sediment in the coastal marine area should only occur:</i></p> <p>i) <i>where the sediment to be deposited is of the same or similar particle size to the sediment at the proposed deposition site</i></p> <p>ii) <i>at times, durations or rates to minimise adverse effects on:</i></p> <ul style="list-style-type: none"> • <i>threatened bird species</i> • <i>migratory patterns of marine life</i> • <i>spawning of marine life</i> • <i>coastal water quality</i> • <i>recreational and commercial activities in the immediate area</i> • <i>benthic communities adjacent to the area to be deposited on and</i> • <i>cultural and social values.</i> <p>iii) <i>where the sediment to be deposited is not spoil from land-based activities.</i></p> <p>d) <i>Deposition of materials containing hazardous substances in quantities which will adversely affect the life supporting capacity of the coastal marine area, shall be avoided.</i></p> <p>e) <i>Disturbance and deposition arising from the disposal of spoil from land-based activities should be avoided.</i></p>

The proposed beach nourishment will be undertaken in a manner which is consistent with the guideline in Table 11 relating to the deposition of material within the Coastal Marine Area.

6.7 CENTRAL HAWKE'S BAY DISTRICT PLAN

There are three Chapters of the CHBDP that are particularly relevant to the RWS Scheme, namely Chapter 10 – Utilities, Chapter 4 – Rural Zone, and Chapter 13 – Hazardous Substances.

6.7.1 UTILITIES

The two objectives relating to utilities are as follows:

10.1.1 - Objective

The construction, installation, operation and maintenance of utilities are carried out in a way that ensures adverse effects on the amenity and the surrounding environment are avoided, remedied or mitigated.

10.2.1 - Objective

The establishment, use and maintenance of utilities, necessary for the well-being of the community.

The policies seeking to implement the objectives above that are relevant to the RWS Scheme are as follows:

10.1.2 - Policies

1. *To avoid, remedy, or mitigate adverse environmental effects created by the construction, installation, operation and maintenance of utilities through the separation of incompatible activities and maintenance of visual amenities, safety, and the quality of the environment anticipated within different areas of the District.*
4. *To take account of economic and operational needs in assessing the location, design and appearance of utilities.*

10.2.2 – Policies

2. *To take into account the strategic needs of a utility and its costs to the community, when considering alternative locations or sites for the establishment or alteration of a utility and the appearance of a utility.*
4. *To give due regard to the importance of a utility when assessing the establishment of a proposed utility or the suitability of a particular site or proposed adjoining activities.*
7. *To ensure that buildings, structures or earthworks are not established or carried out near electrical lines or their support structures in order to avoid or mitigate any potential safety risks to the community or the disruption to electricity services.*

The RWS Scheme has been developed and advanced in a manner which is consistent with the above objectives and policies. The following technical reports have been prepared to address the actual or potential effects of the RWS Scheme on the amenity of the surrounding environment (in terms of the matters within the jurisdiction of the CHBDC):

- Social Impact Assessment (Taylor Baines (May 2013));
- Recreation Assessment (Opus (May 2013a));
- Noise Assessment (Marshall Day (May 2013));
- Landscape and Visual Assessment (Isthmus (May 2013)); and
- Draft Construction Environmental Management Plan (see Appendix C of the Project Description).

Following the recommendations of the above reports (as applicable), the proposed conditions of consent (see Part D – Proposed Conditions) are specifically intended to address the first of the above objectives and the relevant policies.

The construction and operation of the RWS Project is supported by the second of the above objectives.

6.7.2 RURAL ZONE

The following objectives and policies relating to the Rural Zone are relevant to the RWS Scheme:

4.2.1 Objective - Rural Amenity and Quality of the Environment

A level of rural amenity which is consistent with the range of activities anticipated in the rural areas, but which does not create unpleasant conditions for the District's rural residents; or adversely affect the quality of the rural environment.

4.2.2 Policies

1. *To encourage a wide range of land uses and land management practices in the Rural Zone while maintaining rural amenity.*
8. *To encourage the protection of waahi tapu and other taonga by facilitating consultation between landowners and the Tangata Whenua should developments be proposed where values occur.*



The RWS Scheme will introduce additional 'built' elements to the rural environment, but these will not be out of character with that environment or adversely affect the quality of the rural environment. Policy 1 encourages a wide range of activities which must be taken to include the activities which service rural production. As noted in Section 3 of this report, Sites of Significance to Tangata Whenua identified in the CHBDP have been explicitly excluded from the Consent Application Areas relating to the RWS Project.

Effects on rural amenity are primarily addressed in the Landscape and Visual Effects Assessment (Isthmus (May 2013)). It concludes that adverse landscape amenity effects will be low for a project of this type. It also notes that there will be some positive landscape amenity effects (discussed in more detail later in this report in relation to Part 2 of the RMA).

The Rural Zone includes the following objectives (and one relevant policy) in relation to 'Nature Conservation, Landscape Values, and Riparian Management':

4.4.1 - Objectives

1. *Protection and enhancement of defined nature conservation areas, and outstanding landscapes views within the District.*
2. *The margins of wetlands, rivers, lakes and the coast are managed in order to preserve the natural character of these environments and the margins of identified river catchments are managed to enhance water quality.*

4.4.2 - Policies

4. *To discourage inappropriate development in sites identified as having rare, endangered, or vulnerable species of plants or animals of national significance, or indigenous plant or animal communities that are of significance to the nation.*

As above, effects on outstanding landscapes are addressed in the Landscape and Visual Effects Assessment (Isthmus (May 2013)). The only outstanding landscape in the area is the Ruahine Ranges and the RWS Scheme will have negligible effects on the landscape values of the Ranges (discussed in more detail later in this report in relation to Part 2 of the RMA).

The RWS Scheme will not achieve the protection of the Site of Nature Conservation Value (Site 18) due to the inundation of this area by the creation of the reservoir behind the Makaroro Dam. However, due to the benefits of the RWS Scheme and the other objectives and policies in the relevant policy and planning documents, the RWS Scheme is not considered to be an 'inappropriate' form of development (referred to in Policy 4 above).

In any event, as previously noted, the effects of the RWS Scheme will be controlled by the proposed conditions (see Part D – Proposed Conditions) requiring implementation of the measures set out in the report 'Ruataniwha Water Storage Project: Proposed Integrated Mitigation and Offset Approach' (HBRIC (May 2013f)) including the way in which the residual biophysical effects (e.g. effects on terrestrial and aquatic ecology) are addressed around the dam/reservoir area that are not practicably able to otherwise be avoided, remedied, or mitigated directly or entirely.

6.7.3 HAZARDOUS SUBSTANCES

The storage and use of hazardous substances is one of the aspects of the RWS Scheme that gives rise to the need for a land use consent within the administrative jurisdiction of the CHBDC. Chapter 13 of the CHBDP has one objective as follows:



13.2.1 - Objective

The avoidance or mitigation of adverse effects and risks caused by activities involving the use and/or storage of hazardous substances.

The above objective is followed by five policies, the first three of which are relevant to the RWS Scheme as follows:

13.2.2 - Policies

1. *To avoid or mitigate the potential for adverse effects to the environment from the use of land for the storage and/or use of hazardous substances; while recognising that the quantities of hazardous substances, which are acceptable in different areas of the District, will vary depending on the proximity of residential use, on community expectation and the sensitivity of the surrounding environment.*
2. *To promote the effective management of the use, storage, transportation, manufacture, and disposal hazardous substances through a co-ordinated approach between agencies responsible for the management of hazardous substances.*
3. *To ensure hazardous substance are securely contained during storage, and to ensure that adverse effects on the environment from a hazardous substances spillage are, where possible, minimised.*

The management of hazardous substances is addressed in the Draft Construction Environmental Management Plan (CEMP) (see Appendix C of the Project Description) in a manner which is consistent with the above objective and policies. The proposed conditions of consent (Part D – Proposed Conditions) require that the consent holder complies with the CEMP at all times.

6.8 HASTINGS DISTRICT PLAN

The parts of the Hastings District Plan (HDP) which are most relevant to the RWS Scheme are Section 13.3 – Network Utilities District Wide Activity and Section 5.0 – Rural Zone. Section 13.2 – Mineral, Aggregate and Hydrocarbon Extraction District Wide Activity and Section 13.4 – Earthworks District Wide Activity are also relevant.

6.8.1 NETWORK UTILITIES

The objective and policies in relation to network utilities of relevance to the RWS Scheme are:

Objective

NUO1 To provide for the safe, effective and efficient construction, operation, maintenance, replacement, refurbishment and upgrading of Network Utilities, for the social and economic well being of the community, while avoiding, remedying or mitigating any significant adverse effects on the environment.

Policies

NUP1 Provide for the on-going operation, maintenance, replacement, refurbishment and upgrading of all existing Network Utilities.

NUP2 To enable the establishment and upgrading of network utilities while ensuring that any significant adverse effects on the environment are avoided, remedied or mitigated.

NUP4 Recognise special technical requirements and constraints of Network Utilities including those associated with their scale, location, design and operation.



The above objective and policies recognise the importance of network utilities, such as those forming parts of the RWS Scheme. The comments above in the context of the CHBDP in relation to the management of environmental effects are equally relevant to the above objective and policies in the HDP.

6.8.2 RURAL ZONE

The objectives in the Rural Zone of the HDP are as follows:

RUO1 To safeguard the life-supporting capacity of the rural land resource for present and future generations.

RUO2 To enable the rural land resource to be used for a wide range of activities while avoiding, remedying or mitigating adverse effects of land use activities on the rural community, adjoining activities, marae, and the environment."

There are 17 policies relating to the Rural Zone which amplify the outcomes sought to be achieved in the above objectives. The policies which are relevant to the RWS Scheme are as follows:

RUP1 To enable the establishment and efficient operation of Land Based Primary Production by safeguarding the life-supporting capacity of the rural land resource and ensuring the management of adverse effects on the environment.

RUP7 Control the adverse effects of buildings and activities on the community, adjoining activities and the environment.

RUP9 Ensure that noise levels associated with activities are consistent with the character and amenity of the Rural Zone.

RUP11 Control access and egress to ensure the safe and efficient movement of traffic to and from the Hastings District Roding Network.

For the same reasons as previously discussed in relation to the CHBDP, the RWS Scheme is consistent with the objectives and policies relating to the Rural Zone in the HDP.

In relation to Policy RUP9 above, the noise effects associated with the RWS Scheme are addressed in the report Noise Assessment (Marshall Day (May 2013)).

In relation to Policy RUP11 above, the traffic generation and access arrangements are the subject of the report Traffic and Road Access Assessment (Opus (May 2013b)).

In accordance with the recommendations in the above reports (and other reports), conditions of consent have been proposed (Part D – Proposed Conditions) which control the actual and/or potential effects on the environment associated with the RWS Scheme of relevance under the HDP including noise and traffic / access issues.

6.8.3 AGGREGATE EXTRACTION AND EARTHWORKS

The objectives in Section 13.2 – Mineral, Aggregate and Hydrocarbon Extraction District Wide Activity of the HDP of relevance to the RWS Scheme are as follows:



- MO2 To provide for the efficient and economic utilisation of the mineral resources of the Hastings District, in order to meet international, national and district demands for such resources, and to meet the social and economic needs of the Hastings District.*
- MO3 To ensure that the investigation of the Hastings District's mineral resources, and their utilisation occurs in such a manner that the life supporting capacity of air, water, soil and ecosystems is safeguarded and that significant adverse effects of prospecting, exploration or mining and associated activities on the environment are avoided, remedied or mitigated.*

The relevant policies are:

- MP2 Control exploration and mining activities to ensure that they will not adversely affect the natural and physical environment, as well as the amenity of the community and adjoining land uses.*
- MP3 Prevent exploration or mining activities in areas where adverse effects on the environment cannot be avoided, remedied, or mitigated.*
- MP5 Recognise the importance of river based gravel extraction for river and flood management purposes and the concurrent need for gravel supplies to be conveniently located and of appropriate quality.*
- MP6 Provide for the needs of landowners in the Rural and Plains Zones to extract aggregates or minerals for use on their properties.*

The objective and policies in Section 13.4 – Earthworks District Wide Activity of the HDP are as follows:

- EWO1 To provide for earthworks while ensuring that the life-supporting capacity of water, soil and ecosystems is safeguarded and that significant adverse effects on the environment are avoided, remedied or mitigated.*
- EWP1 Limit the scale and location of earthworks to ensure that any significant adverse effects on people, property, public or Network Utility assets, or the environment are avoided.*
- EWP2 Require the repasture or revegetation of land where vegetation is cleared in association with earthworks.*

The manner in which earthworks (including aggregate extraction) will be undertaken and controlled is set out in the Draft Construction Environmental Management Plan (CEMP) (see Appendix C of the Project Description) in a manner which is consistent with the above objectives and policies. The proposed conditions of consent (Part D – Proposed Conditions) require that the consent holder complies with the CEMP at all times.

6.9 OTHER POTENTIALLY RELEVANT PLANS AND STRATEGIES

There are a number of other plans, strategies or documents (mostly non-statutory) that are potentially relevant to the RWS Scheme, which are discussed as follows.

6.9.1 HBRC LAND AND WATER MANAGEMENT STRATEGY

HBRC established a collaborative multi-party reference group to assist with the development of a strategic document which would provide higher level strategic direction for land and water



management in Hawke's Bay. The outcome was the Hawke's Bay Land and Water Management Strategy (LAWMS). A non-statutory document, LAWMS was adopted by HBRC and launched at a 2nd Regional Water Symposium a year later in November 2011.

The Section 32 Report in relation to PC6 discusses the LAWMS as follows:

LAWMS highlights that many agencies have a role to play in achieving the desired environmental and economic outcomes. LAWMS has a focus on future viability and resilience of the region's land and regional long-term prosperity through sustainable land use and water management while at the same time maintaining overall quality of freshwater and freshwater ecosystems in accordance with agreed management objectives.

LAWMS recognises the need for forward thinking water management decisions to be made in the interests of long-term environmental, economic, social and cultural benefits and that large scale community storage infrastructure which can provide increased water security in water scarce catchments is a key element of long term sustainable solutions.

A number of the LAWMS policies have been carried through into the RPS via Change 5 in order to provide decision-makers with context to catchment-specific objectives and limits setting. Embedding relevant LAWMS policies in the RPS ensures those policies are contained in an influential statutory planning document that guides not only Regional Council decision-making, but also decisions made by city and district councils when preparing district plans and considering resource consent applications.

6.9.2 HBRC WATERWAY DESIGN GUIDELINES

The HBRC Waterway Design Guidelines provide guidance for works in and adjacent to rivers and streams, and to assist with sediment control during construction and disturbance work in these areas. These guidelines have been taken into account as part of the preparation of the Draft Construction Environmental Management Plan (CEMP) (see Appendix C of the Project Description) and the proposed conditions of consent (Part D – Proposed Conditions).

7 PART 2 OF THE RMA

The matters to be considered under sections 104 and 171 of the RMA are subject to Part 2 – Purpose and Principles of the RMA.

7.1 PURPOSE OF THE RMA

The cornerstone of Part 2 is the Purpose of the RMA as set out in section 5(1), which is:

To promote the sustainable management of natural and physical resources.

Section 5(2) of the RMA defines sustainable management as:

Managing the use, development and protection of natural and physical resources in a way or at a rate which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

The promotion of sustainable management requires an overall broad judgement of whether a proposal will meet the requirements of section 5(2) of the RMA. The approach recognises that the RMA has a single purpose – sustainable management. Such a judgement allows for the comparison of conflicting considerations and the scale or degree of them and their relative significance or proportion in the final outcome.

In terms of section 5 of the RMA, the proposed RWS Scheme will enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety by the provision of water (primarily for irrigation) that will facilitate an increase in the productive potential of their land.

Electricity generated at the Makaroro Dam is also consistent with the Government's policy²⁴ of encouraging the use of renewable energy sources, particularly where this assists the Government in meeting its international commitments in relation to the Kyoto Protocol due to the low level of CO₂ emissions associated with hydro-electricity generation.

In addition to the above, the RWS Project will enable a range of parties to provide for their social, economic, and cultural well-being through the creation of employment and associated economic activity. The key findings of the report 'Regional Economic Impacts and Financial Cost Benefit Analysis of the Proposed Ruataniwha Water Storage Scheme' (Butcher (May 2013)) are set out as follows.

²⁴ As expressed through the New Zealand Energy Strategy to 2050, the National Energy Efficiency and Conservation Strategy and the NPS REG.

Economic Impact Assessment

Regional GDP will increase by a one off \$350 million as a result of both on-farm and off-farm investment associated with the on-farm development and construction phases of the Scheme. Associated with that will be an extra \$230 million of household income and 4,000 job-years of work. These impacts will be spread over 12 years, but 80 % will occur in the first five years.

Regional GDP will increase as farms convert to irrigation, and once 100 % of them are converted regional GDP on farms and in industries that directly or indirectly support farms will increase by \$127 million per year. Associated with this increase will be an additional \$52 million per year of household income and 1,160 Full Time Equivalent jobs.

There will be an increase in processing of vegetables, grapes, other fruit and possibly dairy, although there will be a decline in meat processing with the conversion of so much sheep and beef to dairying, dairy support and intensive process crops. While there is considerable uncertainty about the level of processing that will occur in the region, total combined increase in activity in the farming, processing and supporting industries could raise regional GDP by approximately \$235 million per year including an additional \$110 million per year in household income. A total of 2,250 extra on-going jobs will be created in the region.

Sustainable management enables the use and development of resources while ensuring that the circumstances in section 5(2)(a)-(c) are able to be satisfied.

In terms of the needs of future generations, the RWS Scheme will increase the productive potential of the land to be irrigated which will enhance the ability of the region's land resources to produce food for current and future generations along with increase associated economic activity (e.g. produce transported and exported via the Port of Napier).

As previously discussed, there will be adverse effects on the life supporting capacity of indigenous vegetation and habitats, however, mitigation measures have been proposed to address those effects.

The effects on the environment associated with the RWS Scheme have been addressed in Part C – Assessment of Environmental Effects, and it is concluded that, with the proposed conditions of consent, the effects of the activity on the environment will be no more than minor or otherwise appropriately managed and/or addressed.

7.2 MATTERS OF NATIONAL IMPORTANCE

Section 6 of the RMA sets out the Matters of National Importance that must be recognised and provided for in managing the use, development and protection of natural and physical resources.

- (a) The preservation of the natural character of the coastal environment (including 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 maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers:*
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, waahi tapu, and other taonga;*
- (f) The protection of historic heritage from inappropriate subdivision, use and development;*



(g) *The protection of recognised customary activities.*

A number of the matters listed in section 6 of the RMA require the protection of various aspects of the environment from 'inappropriate' subdivision, use and development. However, the RWS Scheme is not considered to be an 'inappropriate' form of development, particularly given that the objectives and policies in the relevant statutory instruments (discussed above) recognise, provide for, and in some cases encourage the type of activities proposed (subject to meeting environmental performance standards). Despite that being the case, detailed investigations have been undertaken, and reports prepared, which address the matters listed in section 6 of the RMA as follows.

The matters listed in sections 6(a) and (b) have been considered in the report 'Ruataniwha Water Storage Scheme – Landscape and Visual Effects Assessment' (Isthmus (May 2013)). That report concludes that the main adverse landscape effect will be on the natural character of the Makaroro River in the vicinity of the dam and reservoir, and on the downstream flows below the dam. Natural character will clearly not be preserved in the vicinity of the dam and within the reservoir footprint, and it will be diminished to some extent on the Makaroro River (and to a lesser extent the Waipawa River) downstream of the dam as a result of changes in flow regime and sediment load. Such effects are common to any in-river dam. The Landscape Assessment lists the following factors to take into account when considering the appropriateness in relation to such effects:

- The modified 'working rural character' of the adjacent land;
- The low visibility of the dam (and hence low effects on the appearance (visual aspects) of natural character);
- The naturalistic appearance of the reservoir;
- Proposed measures as described in the 'Proposed Integrated Mitigation and Offset Approach' report which will enhance the biophysical and visual aspects of natural character of the reservoir including establishing a fenced and planted margin around the reservoir, and measures to enhance habitat and control predators in the reservoir catchment;
- Proposed management of the downstream flow regime to provide minimum low flows in the Makaroro River, regular flushing during summer months, and biodiversity enhancement measures in the downstream sections of the Makaroro and Waipawa Rivers;
- Beach replenishment at the mouth of the Tukituki River to replace the reduction in sediment load;
- The low impacts of the intake and outfall structures on natural character because of their low profiles, low visibility locations, and modified rural settings;
- Positive effects on the lower Tukituki River as a result of increased summer flows and flushing 'freshes'; and
- Positive effects on the natural character of the Papanui Stream because of increased flows which will partly restore historic flows, and the associated fencing and margin restoration.

In terms of section 6(b), the Landscape and Visual Effects Assessment concludes:

The only outstanding natural feature or landscape in the area is the Ruahine Ranges. The Scheme will have negligible effects on the landscape values of the Ranges because the dam and reservoir will be in a working landscape that is clearly separate from the Ruahine Ranges, the dam itself will not be visible from the ONL (except in very long distance views from the mountains) or from roads providing access to the Ranges, and the upstream end of the reservoir will not be visible from where the Makaroro River emerges from the Ranges.

Overall, the Landscape and Visual Effects Assessment concludes:



In summary the project will not be out-of-place in the landscape, the main elements have been appropriately designed and located, and the degree of residual adverse landscape or visual effects will be relatively modest for a project of this type.

Measures that are already incorporated within the design of the RWS Scheme that will avoid or minimise potential adverse landscape effects. Suggested further measures to mitigate residual adverse effects (and enhance amenity) include planting around parts of the lake margin, measures (such as armouring and contouring) to ameliorate the fluctuating water level bare zone, public amenity facilities adjacent to the lake, and implementing the landscape principles and guidelines for the detail design of the headrace. These measures, along with measures relating to other disciplines, are as described in the report 'Ruataniwha Water Storage Scheme – Proposed Integrated Mitigation and Offset Approach' (HBRIC (May 2013f)).

In terms of section 6(c), as previously discussed in relation to the Proposed NPSIB and the objectives is the RRMP, the RWS Scheme will involve the removal and/or inundation of areas of significant indigenous vegetation and significant habitats of indigenous fauna. The effects of the RWS Scheme on significant indigenous vegetation and significant habitats of indigenous fauna have been addressed in the report 'Ruataniwha Water Storage Scheme – Terrestrial Ecology Study Assessment of Ecological Effects (Kessels & Associates (May 2013)). To address the effects of the RWS Scheme on indigenous vegetation, a range of mitigation measures have been proposed as set out in HBRIC (May 2013f).

The Aquatic Ecology Assessment (Cawthron (May 2013)) addresses the effects of the RWS Scheme on aquatic habitat and indigenous fauna. It identifies a range of actual and potential effects on aquatic habitat and indigenous fauna and also sets out way in which those effects can be avoided, remedied or mitigated.

In terms of section 6(d), there will be changes to manner in which the public will be able to obtain public access to and along the Makaroro River due the construction of the dam and the formation of the reservoir. The later will create a new 'flat water' resource. The 'Ruataniwha Water Storage Scheme - Recreation Assessment' (Opus (May 2013a)) concludes that flat water is sought after in Hawke's Bay for rowing and motor boat activities, and it is acknowledged that there is potential for these and a range of other recreational activities such as fishing, swimming and lakeside activities to be provided for at the reservoir.

The discussion above in relation to the section of the RRMP relating to 'Recognition of Matters of Significance to Iwi/Hapu' is relevant to sections 6(e), (f) and (g) of the RMA. In addition, the report 'Ruataniwha Water Storage Scheme - Archaeological Assessment' (Clough & Associates (May 2013)) addresses the matters of relevance to section 6(f) of the RMA. The only known archaeological site affected by the RWS Scheme is the site of Gardner and Yeoman's Sawmill, located on the southern bank of the Makaroro River near Dutch Creek.

The recommendations in the Archaeological Assessment have been incorporated into the 'Ruataniwha Water Storage Scheme – Integration and Mitigation and Offset Approach' (HBRIC (May 2013f)). To address any situation whereby an archaeological site is discovered during works associated with the construction of the RWS Scheme, the proposed conditions (Part D – Proposed Conditions) includes a Cultural /Archaeology Sites Protocol.

As previously noted, the RWS Scheme is not considered to be an 'inappropriate' type of development (referred to in section 6(f)), however, with the above measures in place, the RWS Scheme appropriately addresses historic heritage issues and is consistent with section 6(f) of the RMA.

7.3 OTHER MATTERS

Section 7 of the RMA sets out the matters that particular regard must be had to in managing the use, development and protection of natural and physical resources:

- “(a) kaitiakitanga:*
- (aa) the ethic of stewardship:*
- (b) the efficient use and development of natural and physical resources:*
- (ba) the efficiency of the end use of energy:*
- (c) the maintenance and enhancement of amenity values:*
- (d) intrinsic values of ecosystems:*
- (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (h) the protection of the habitat of trout and salmon:*
- (i) the effects of climate change:*
- (j) the benefits to be derived from the use and development of renewable energy.”*

Most aspects of sections 7 of the RMA are relevant to the RWS Scheme.

In terms of section 7(a), the processes of consultation undertaken with representatives of tangata whenua (previously discussed) have facilitated opportunities for them to exercise kaitiakitanga in relation to the development of the RWS Scheme.

Sections 7(aa) and 7(b) are closely related. The RWS Scheme is an example of the ethic of stewardship in action whereby it seeks to better utilise available resources (water and land) in a more efficient manner, resulting in greater levels of agricultural production, while addressing existing environmental issues within the Tukituki River catchment.

Section 7(c) requires that particular regard be had to the maintenance and enhancement of amenity values. Amenity values are defined in section 2 of the RMA as being:

“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”.

Closely related to section 7(c), section 7(f) requires that particular regard be had to the maintenance and enhancement of the quality of the environment, which is broadly defined in section 2 of the RMA as follows:

“Environment includes-

- (a) Ecosystems and their constituent parts, including people and communities; and*
- (b) All natural and physical resources; and*
- (c) Amenity values; and*
- (d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.”*

These matters are primarily addressed in the Landscape and Visual Effects Assessment (Isthmus (May 2013)). It concludes that adverse landscape amenity effects will be low for a project of this type. It also notes that there will be some positive landscape amenity effects as follows:

- The reservoir will have high amenity as a ‘lake’ taking into account its serpentine form, tributary reaches, bold hill backdrop, and the revegetation proposed around its margins;



- The primary distribution system head race canal may also be perceived as a positive and interesting feature; and
- The use of the Papanui Stream to convey irrigation water will partly restore the watercourse, and the fencing and replanting of its banks will enhance its natural character.

Subject to the imposition of the proposed consent conditions (see Part D – Proposed Conditions), overall the proposed activities will have no more than minor adverse effects on amenity values. As discussed below, the proposed flushing flows will have a positive effect on the amenity values of the lower Waipawa and Tukituki Rivers by reducing the incidence of excessive periphyton growth.

The quality of the environment will also be enhanced by the RWS Scheme due to the increased productivity of the land that will be facilitated by irrigation along with the general increase in economic activity (discussed above in relation to section 5 of the RMA).

In terms of section 7(d), the RWS Scheme will have some adverse effect on the intrinsic values of ecosystems, particularly due to the loss of indigenous vegetation associated with the construction of the Makaroro Dam and the formation of the reservoir. As discussed above, mitigation measures are proposed to address this effect. There will be some positive effects on the intrinsic values of aquatic ecosystems as a result of stock exclusion, improvement in riparian and in-stream habitat, and a reduction in the incidence of excessive periphyton growth as a result of the RWS Scheme.

Section 7(g) of the RMA is of particular relevant to the RWS Scheme. Fresh water is a finite resource and the RWS Scheme seeks to manage this resource within the Tukituki River catchment in a more efficient manner than is currently possible in the absence of the RWS Scheme. The RWS Scheme also seeks to facilitate a more productive use of land which is another finite resource.

In terms of section 7(h), the minimum flow requirements and the proposed flushing flows are intended to improve the water quantity and water quality issues associated with the Tukituki River catchment which is a habitat for trout.

The RWS Scheme design has incorporated the capacity for four flushing flows of up to 30 m³/s to be released from the dam per year to aid the management of periphyton growth in reaches downstream of the dam, including the lower Tukituki River. The Aquatic Ecology Assessment (Cawthron (May 2013)) states:

These flushing flows will be very effective in the Makaroro and Waipawa rivers downstream of the dam. However, evidence suggests that they are also likely to provide significant benefits in the Tukituki River below the Waipawa confluence, particularly if the flow releases are timed to coincide with small natural freshes from the upper Waipawa and upper Tukituki rivers. Therefore, nuisance periphyton accumulations will be able to be managed to a large extent using these flushing flows. This is a clear environmental benefit of the Scheme over the status quo and will help to meet the objectives of the proposed Tukituki Plan Change 6.

As explained in the Section 32 Report in relation to PC6, the toxicity limits in PC6 have been conservatively set to safeguard not only trout, but also native fish and macroinvertebrate species.

In terms of section 7(i), the effects of climate change are relevant to the RWS Scheme. The report 'Climate Change and its Implications for the Ruataniwha Water Storage Scheme' (Renwick (May 2013)) sets out the predicted changes to the weather patterns between now and the end of this century. Of particular relevance to the RWS Scheme, the Climate Change Report concludes that drought risk is likely to increase most in eastern regions, including Hawke's Bay, where a doubling or tripling of the risk is likely by the end of the century. The RWS Scheme is intended to mitigate the risk of drought by storing



water during periods of rainfall and making that water available at other times when there is less rainfall.

Section 7(j) requires that particular regard be had to the benefits to be derived from the use and development of renewable energy. “Renewable energy” is defined in section 2 of the RMA and includes electricity produced from hydro sources. The proposed generation electricity associated with the RWS Scheme will be of benefit to the Hawke’s Bay community and, as previously noted, is also consistent with the NPS REG.

7.4 TREATY OF WAITANGI

Section 8 of the RMA states:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).”

While there is no comprehensive or authoritative list of principles of the Treaty of Waitangi available for consideration, case law has indicated that these may include principles of active protection, good faith consultation and communication, and a spirit of partnership.

As discussed above, the processes of consultation undertaken with representatives of tangata whenua have facilitated opportunities for involvement in the investigations and development of the RWS Scheme throughout.

8 CONCLUSION

HBRIC is seeking all necessary approvals for the RWS Scheme under the RMA by way of:

- A notice of requirement being lodged with the Environmental Protection Authority (within the administrative jurisdiction of the CHBDC) for the proposed headraces and primary pipelines; and
- Resource consent applications being lodged with the Environmental Protection Authority for all other aspects of the RWS Scheme (within the administrative jurisdiction of the CHBDC, HDC, and HBRC) that are not permitted activities.

The notice of requirement has been assessed in relation to the matters in section 171 of the RMA. The activities associated with the RWS Scheme for which resource consent applications have been lodged with the EPA are mostly discretionary activities and have been assessed in relation to the matters in section 104 of the RMA.

The RWS Scheme has been considered in relation to the relevant matters specified in sections 104 and 171 of the RMA as applicable. Overall, it is concluded that the RWS Scheme is consistent with the relevant objectives and policies in the statutory instruments that are relevant to the notice of requirement and the resource consent applications.

In conclusion, it is considered that the RWS Scheme is consistent with the purpose and principles of the RMA.