

**Form 7**

**In the Environment Court of New Zealand  
Wellington Registry**

**I Te Kooti Taiao o Aotearoa  
Whanganui a Tara**

ENV 2022

Under the Resource Management Act 1991 (RMA)

In the matter of an appeal under Clause 14(1) of the First  
Schedule of the Act

Between *Mangaroa Marae, representing the hapū – Ngāti  
Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and  
Ngāti Pouwharekura.*

Appellant

And Hawkes Bay Regional Council

Respondent

**Notice of Appeal by** *Mangaroa Marae, representing the hapū – Ngāti  
Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and  
Ngāti Pouwharekura.*

**Iwi Incorporated (Plan Change 9 to Hawkes  
Bay Regional Resource Management Plan)**

**Dated this 25<sup>th</sup> day of October 2022**

Filed by Cordry Tawa Huata, Chair of Mangaroa Marae Committee and  
Mangaroa Marae Trustees, of – *Ngāti Rāhungaiterangi, Ngāti Pōpōro,  
Ngāti Pāhū and Ngāti Pouwharekura.*

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To: The Registrar  
Environment Court  
Whanganui a Tara

- 1 *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiteurangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura.* appeals against decisions of the Hawkes Bay Regional Council (**Council**) on Plan Change 9 to the Hawkes Bay Regional Resource Management Plan (**Decision** or **Plan Change 9**, as the context requires).
  
- 2 *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiteurangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura,* lodge this appeal collectively and as a successor of the following submissions (#148 Rahina Huata; #149 Eddie Huata\*; #150 Nathan Huata; #151 Riki Huata; #152 Rosemary Smith / Ihaka Waerea (deceased); #153 Huia Te Rina Ripeka Huata Huata; #154 Jeston Craig; #155 Lesley Reid; #156 Oilly Craig; #157 Furness Keriana Armstrong; #158 Camilla Shultz; #159 Reid Craig; #160 Ngawai Waerea; #161 Harata Rapaea; #162 Letitia Waerea; #163 Sonna Waerea; #164 Hemi Hokianga; #166 Rihimoana Waerea; #167 Thomas Waerea; #168 Harata Waerea; #169 Russell Morrell; #170 Raewyn Morrell Turner; #171 Henrietta Dzilic; #172 Rawiri Morrell; #173 Parewanui Morrell; #174 Rangī Morrell; #175 Katarina Morrell; #176 Dennis Morrell; #177 Raewyn Morrell; #178 Jack Morrell; #181 Derek Huata; #182 Hira Huata; #183 Huia Huata; #184 Cordry Huata; #187 Abrielle Robin; #188 Donna Robin; #189 Queenie Cooke; #190 Randle Cooke; #191 Rangīwhiuia Robin; #226 Jane Morrel and #241 Wi Te Tau Huata), on Plan Change 9.
  
- 3 *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiteurangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura,* is not a trade competitor for the purposes of s308D RMA.

- 4 *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura*, received notice of the Council's decisions on Plan Change 9, on 09 September 2022.
- 5 The decisions were made by independent Commissioners with delegated authority on behalf of Council.
- 6 Relevant provisions appealed by *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura*, and associated relief, are set out below.

**Reasons for the appeal**

- 7 Proposed Plan Change 9, Tutaekuri, Ahuriri, Ngaruroro, Karamu and Heretaunga Aquifer (the TANK catchments) are significant freshwater taonga of tangata whenua. As hapū of these lands, we exercise rangatiratanga over these freshwater taonga and all that they embrace. These taonga have their own 'Mana' and have sustained and nurtured our people both physically and metaphysically for generations and as such are captured in our whakapapa, pepeha, purakau, whakatauki. We have a (kaitiakitanga) responsibility to in turn care, protect and respect these waters for future generations. This plan does not reflect this responsibility in that it lacks holistic application, long term consideration and promotes "economic sustainability" as a priority contrary to our culture and tikanga.
- 8 Over-allocation, over-abstraction, poor water quality are related issues, and need to be addressed in accordance with the aforementioned values and obligations as part of our culture and the management of these waters.
- 9 The Resource Management Act 1991 and subsequent documents including the priorities identified by the NPS-FM 2020 have provisions to give effect.
- 10 Given the nationally significant values, and our whakapapa relationship, whanau of *Mangaroa Marae, representing the hapū –*

*Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura* lodged a number of comprehensive submissions on Plan Change 9 seeking relief. For the most part, the decisions version of Plan Change 9 has rejected, or rejected in part, those submission, the concerns of our whanau and relief sought. Accordingly, this Appeal relies on the same or similar grounds, relief, and scope identified by whanau submissions of *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura* submissions (#148 Rahina Huata; #149 Eddie Huata\*; #150 Nathan Huata; #151 Riki Huata; #152 Rosemary Smith / Ihaka Waerea (deceased); #153 Huia Te Rina Ripeka Huata Huata; #154 Jeston Craig; #155 Lesley Reid; #156 Olly Craig; #157 Furness Keriana Armstrong; #158 Camilla Shultz; #159 Reid Craig; #160 Ngawai Waerea; #161 Harata Rapaea; #162 Letitia Waerea; #163 Sonna Waerea; #164 Hemi Hokianga; #166 Rihimoana Waerea; #167 Thomas Waerea; #168 Harata Waerea; #169 Russell Morrell; #170 Raewyn Morrell Turner; #171 Henrietta Dzilic; #172 Rawiri Morrell; #173 Parewanui Morrell; #174 Rangi Morrell; #175 Katarina Morrell; #176 Dennis Morrell; #177 Raewyn Morrell; #178 Jack Morrell; #181 Derek Huata; #182 Hira Huata; #183 Huia Huata; #184 Cordry Huata; #187 Abrielle Robin; #188 Donna Robin; #189 Queenie Cooke; #190 Randle Cooke; #191 Rangiwhiua Robin; #226 Jane Morrel and #241 Wi Te Tau Huata), as identified by the **Appendices** to this Appeal.

11 General reasons for the appeal include that Plan Change 9:

11.1 does not promote sustainable management of resources, and will not achieve the purpose of the RMA;

11.2 does not give effect to Te Mana o te Wai and the NPS-FM 2020;

11.3 does not implement tikanga, or recognize its relevance to appropriateness of Plan Change 9 provisions;

11.4 does not recognise and provide for *Mangaroa Marae*, representing the hapū – *Ngāti Rāhungaiterangi*, *Ngāti Pōpōro*, *Ngāti Pāhū* and *Ngāti Pouwharekura* mahinga kai, kaitiakitanga and ancestral connections to named ancestral rivers and tributaries, wāhi tapu and taonga, address Treaty rights and proprietary interests, and cultural wellbeing.

11.5 does not address relevant principles of te Tiriti o Waitangi, including rangatiratanga and active protection of freshwater taonga.

### **Relief**

12 The overall approach taken in the plan change and subsequent catchments is that recognition of cultural values is through Te Ao Pakeha values and indicators. There's an assumption that tangata whenua values will be met by these indicators that approximate our cultural values, such as Mauri. It's our submission that tangata whenua indicators add value and provide a strong foundation and framework for sound holistic assessment of overall environmental well-being, long term sustainability and sound management. We submit coexistence of parallel world views can exist in this context and that existing outcomes demonstrate that priority focus and measures for Te Ao Pakeha values are not comprehensive enough to uphold Council's responsibilities.

13 Reduce number and content of objectives and policies so that clear priorities are set that give effect to Te Mana o te Wai, in particular mana, health and well-being of our waterways.

14 Restore Mana (Mana motuhake) and Mauri, both in terms of water quality, water quantity and water levels to our waters.

### *Water Allocation*

15 Plan Change 9 raises the issue of allocation of water within degraded, over abstracted and over-allocated TANK catchments. It does not use the allocative tools that are available to give effect to Te Mana o Te Wai.

16 Avoid over abstraction and unsustainable management including preference for natural solutions and sustainable management as opposed to engineered off-setting and entrenching of past 'poor' management approaches as an example policy 41 (Paritua and Karewarea Streams). These approaches continually ignore cultural considerations and mātauranga with an often paternalistically [assumed] solution which require further mitigation for the mitigation e.g. stream augmentation<sup>1</sup>.

17 Stronger regulations, targets and limits on water quality and water quantity. Where water take limits are effectively just that.

17.1 Reduce water takes where Te Mana o te Wai is compromised i.e. particularly where Mana is diminished. Where diminished 'Te Mana o te Wai' exists, there are tikanga and cultural obligations for improvement to restore Mana.

17.2 Give true effect to Te Mana o Te Wai for example at least 80% of naturalised flow or 80% of natural water quality.

17.3 Spring flows are restored and have their own mana. Currently no polices or rules exist to protect springs / puna.

17.4 Stream flows are restored and have their own mana. Currently streams are managed according the values human place on species within the stream. Reduction in stream length and habitat are not protected and are

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<sup>1</sup> One streams augmentation can require 'more' augmentation on another stream, and so on and so forth.

adversely impacted by over abstraction including augmentation proposals.

- 17.5 Provide a groundwater (Heretaunga Aquifer) total allocation limit based on mātauranga that does not abstract a greater volume of water than what is recharged into the aquifer. Not based on user demand i.e. "actual and reasonable" non-sense.
- 17.6 Provide specific environmental groundwater "level" limits across the Heretaunga plains
- 17.7 Provide water take limits for all waterways, sections and sub-catchments, affected by water takes. In particular the Paritua at Bridge Pa, this is an highly over abstracted sub-catchment due to decades of over-allocation and well-documented adverse impacts on tangata whenua, with little change.
- 17.8 Decisions and management is based on holistic perspective that includes the highest preservation of ecosystems and "natural" processes.

#### *Water Quality*

- 18 Water quality and ecosystem health are degraded in some areas of the TANK catchments. Targets for water quality in the proposed plan are too far away and too unambitious. Regional Council was criticised by the Environment Court in the past<sup>2</sup> for lacking 'ambition' the decision coming 2 years prior to the largest recorded gastro outbreak in our recorded history. This involved the same waterbody.
- 19 The Ngaruroro River has high water quality and exceptional indigenous fish communities that need to be protected and maintained. However, sediment is a key issue for the Ngaruroro River along with elevated nutrients sourced from land in the tributaries.

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<sup>2</sup> *Ngati Kahungunu Iwi Incorporated v Hawkes Bay Regional Council ENV 2013 WLG50*

- 20 The Tūtaekurī River shows some evidence of declining ecosystem health in the lower reaches and has elevated nutrients in the mainstem and tributaries.
- 21 Nutrient inputs to the Waitangi Estuary from the Ngaruroro, Tūtaekurī and Karamū Rivers need to be reduced to provide for ecosystem health.
- 22 The Ahuriri and Karamū catchments have degraded ecosystem health, heavy sedimentation (including contaminated sediment) and poor dissolved oxygen levels which need to be improved – they have the poorest water quality in the Hawkes Bay Region and are unsuitable for primary contact despite being highly valued culturally and recreationally.
- 23 The diffuse impacts of production land use and contaminants from urban land are key contributors to degraded water quality in the TANK catchments and should be more effectively regulated through PC9 to maintain or achieve water quality objectives and targets in Schedule 26 and to meet the requirements of sections AA and A of the NPS FM.
- 24 Clear objectives (with stated goals or outcomes) are needed to safeguard life-supporting capacity, ecosystem health and human health, to protect the significant values of outstanding freshwater bodies and wetlands, to maintain or improve water quality and to recognise Te Mana o te Wai.

*Management and Peoples*

- 25 Establish Freshwater Management Units alongside tangata whenua so our waters are afforded the most appropriate and specific management possible and accordance with the National Policy Statement for Freshwater Management which, directs Councils to enable tangata whenua to identify our values that apply to any FMU or part of an FMU. This process had commenced by Regional Council through plan development but withdrawn in the proposed plan. Freshwater management Units would also help maintain and enhance water quality.



- 26 Establish sub-catchment freshwater management units so management can be directly responsive to the cause of adverse impacts. For example the Karamu catchment can be split into 3 including the Bridge Pa catchment which has specific over-allocation (water shortage issues), the Poukawa catchment which has water quality and land use issues and the urban catchment which naturally has different cause and effects.
- 27 The Heretaunga Aquifer should be respected as having its own Freshwater Management Unit or Units, at the very least unconfined and confined. As to prevent degradation of the Heretaunga Aquifer.
- 28 Reject the suggestion that matters may be left to the Kotahi plan process. No details of this plan have shared with tangata whenua and 10 years of Council facilitation do not invoke confidence that the Kotahi would necessarily provide a better and quicker process for tangata whenua.
- 29 Recognise, restore and provide for the longstanding relationship, whakapapa and 'investment' of generations of mana whenua that far exceeds that of any other peoples currently resident to these waters.
- 30 Meaningfully involve mana whenua and mātauranga a hapu in the management, and decision making (including relevant consents) of our waters, including monitoring to achieve true Te Mana o te Wai.
- 31 Enable and restore Mahinga kai and kaitiakitanga rights and responsibilities to mana whenua.
- 32 Plan Change 9 will continue to result in more than minor, and significant, actual, potential and cumulative adverse effects on the environment. These include significant adverse cultural effects to *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura.*
- 33 The plan fails to recognise the breadth and scope of cultural values; the insertion of a place holder in schedule 26 for "matauranga Māori

attributes", a schedule solely focused on water quality is evidence of this and contrary to the recommendations made by tangata whenua. This placeholder also has no attachment to policies, objectives or rules. This is covered further by the Te Taiwhenua o Heretaunga submission.

34 If relief is not granted, then decline or withdraw Plan Change 9 because it fails to address the relevant statutory and planning framework, including rangatiratanga, mana whenua tikanga, kaitiakitanga, mahinga kai and active protection of freshwater taonga, Pt 2 RMA, and does not give effect to the NPS-FM 2020.

35 Other considerations are identified in this appeal. If all of the amendments identified by *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura* are not made, then Plan Change 9 should be withdrawn or declined.

#### **Other matters**

36 The Appellant attaches the following documents to this notice.

36.1 The decision subject to appeal.

36.2 A table of submitters for service is attached to this notice.

**Dated** this 25<sup>th</sup> day of October 2022

Authorised signatory for *Mangaroa Marae, representing the hapū – Ngāti Rāhungaiterangi, Ngāti Pōpōro, Ngāti Pāhū and Ngāti Pouwharekura*.



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