

Report No.	19-193
<b>Decision Required</b>	

## HORIZONS ONE PLAN: PLAN CHANGE UPDATE AND PROPOSED PANEL APPOINTMENTS

### 1. PURPOSE

- 1.1. To provide Council with an update on the progress of plan changes being advanced to iterate the Horizons One Plan (One Plan), and to seek Council's approval to appoint three hearing panel commissioners to hear, consider, report and make recommendations on decisions on submissions to Council for Plan Change 2.

### 2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 19-193;
- b. approves the appointment of the hearing panel for plan change 2 (Existing Intensive Farming Land Uses) pursuant to section 34A of the Resource Management Act as follows:
  - i. Brent Cowie – Independent Commissioner and Chairperson;
  - ii. David McMahon – Independent Commissioner; and
  - iii. Elizabeth Burge – Independent Commissioner.
- c. delegates to the Hearing Panel all of the powers, functions and duties under the Resource Management Act 1991 to hear, consider and make recommendations on submissions and further submissions on Plan Change 2, including (without limitation) any powers necessary to address preliminary matters and/or conduct of the hearing;
- d. authorises the Chair of Horizons to sign the appointment order on behalf of the Council, inclusive of the following conditions of appointment:
  - i. The Hearing Panel must conduct the hearing in accordance with the most recent version of the "Making Good Decisions" Workbook, 4th edition including the "Chairs Supplement".
  - ii. The Hearing Panel can continue to hear and make decision if one of more of the commissioners is unable to continue with the hearing provided that there is at least one member of the panel able to hear the submitters.

### 3. FINANCIAL IMPACT

- 3.1. There is no impact on existing budgets as a result of this report.

### 4. COMMUNITY ENGAGEMENT

- 4.1. The Council has carried out community engagement on plan changes in alignment with the requirements of Schedule 1 of the **Resource Management Act 1991 (RMA)**. There has been engagement with iwi, stakeholder groups and the wider community around the difficulties in implementing the One Plan's nutrient management provisions and how we might resolve them.

## 5. SIGNIFICANT BUSINESS RISK IMPACT

- 5.1. Resource management issues, particularly freshwater issues, attract public interest and there is a lack of consensus around solutions or approaches. A loss of public or ministerial confidence in Horizons' ability to make timely or appropriate decisions would have significant ramifications for Council.
- 5.2. The Council has continued to advance Plan Change work to progress towards resolution for our immediate nutrient management implementation issues, while being cognisant of the Government's broader reform proposals for freshwater and resource management.

## 6. BACKGROUND

- 6.1. The One Plan is the combined regional policy statement and regional plan for the Manawatu-Wanganui region, as required under the RMA. The One Plan is required to take into account any new regulation and national direction. All parts of the One Plan are required to be reviewed at least once in a ten-year period.
- 6.2. Earlier this year Council began the process of evolution of the One Plan to ensure that it maintains currency with Government policy, as well as accounts for progress in environmental management and policy. There were also some immediate issues that needed to be addressed in relation to the regulation of nutrient management for intensive farming operations arising from the declaration decisions of the Environment Court.
- 6.3. Plan change 2, which focused on addressing nutrient management issues for existing intensive land uses was notified on 22 July 2019. This plan change was prepared as an intermediate step to resolve nutrient management regulatory settings for existing intensive farming land users. The Minister for the Environment has continued to express a strong interest in the Council advancing this work, particularly the One Plan's workability issues highlighted by the declaratory proceedings.
- 6.4. The Council has a broad plan for review of the entire Horizons One Plan within the 10 year limit. In addition, there are a series of plan changes mapped out to respond to key issues; including nutrient management (plan change 2 & 3), implementation of national standards (plan change 4), and freshwater futures (plan changes 6 & 10). The latter is likely to change timeframes if the Essential Freshwater package of Government requires the 2023 and 2025 timeframes to be met. A diagram of this work is attached as **Annex A**.

## 7. APPOINTMENT OF COMMISSIONERS – PLAN CHANGE 2

- 7.1. Prior to notification of Plan Change 2, the Council agreed that it would appoint independent commissioners to hear the submissions on Plan Change 2, and that a range of suitably qualified individuals would be sought.
- 7.2. Council staff have worked through a long list of potential candidates for appointment drawn from a number of sources (policy leaders, senior staff, and consultants) and proposes candidates that collectively bring the skills, experience and technical expertise required for a complex plan change. Iwi in the region were also consulted and asked to put forward their views on whether they wished to identify a suitable candidate for appointment to the Hearing Panel.
- 7.3. The proposed constitution of the Hearing Panel is: Brent Cowie (chair), David McMahon and Elizabeth Burge. It is suggested that the proposed membership composition addresses the skill set required to hear this plan change (legal, science, iwi). As this is a highly technical and complex plan change the Commissioners, particularly the Chair, needs to have strong planning skills and the ability to interpret highly technical documents. Each of the candidates brings experience in hearing panel membership, and has a good understanding of fresh water issues. The proposed Chair also has familiarity with parts of the One Plan. A summary of experience of each member is attached as **Annex B**.

10 December 2019

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- 7.4. Hearing panel commissioners are appointed pursuant to section 34A of the RMA and are required to hear and determine all submissions and further submissions and prepare decision reports on the submissions.
- 7.5. Council will need to delegate all powers, functions and duties under the Resource Management Act 1991 necessary for the Hearing Panel to hear, consider and make recommendations on submissions and further submissions on Plan Change 2. This encompasses (inter alia) the power to consider and determine any preliminary and/or administrative matters and issue directions, including the power to convene parties, direct expert conferencing, and to seek and receive s42A reports and any technical evidence.
- 7.6. The Hearing Panel, once it has heard submissions, will prepare a report detailing their recommendations that will then be considered by Council.
- 7.7. Such delegations should be subject to the following conditions:
  - a. The Hearing Panel must conduct the hearing in accordance with the most recent version of the “Making Good Decisions” Workbook, 4<sup>th</sup> edition including the “Chairs Supplement”.
  - b. The Hearing Panel can continue to hear and make decision if one of more of the commissioners is unable to continue with the hearing provided that there is at least one member of the panel able to hear the submitters.

## 8. PLAN CHANGE UPDATES

### *Plan Change 2*

- 8.1. The Plan Change 2 work programme continues to advance. Further submissions closed on 3 December 2019, completing the submissions part of the notification process.
- 8.2. A substantial amount of technical work is underway to support the plan change, including a specific focus on Horticulture. This includes engagement with HortNZ and their growers. HortNZ have indicated that they may use the technical work produced as an input into further modelling.
- 8.3. Resources have been increased to support the technical planning development necessary for this work. As this is a highly complex plan change, with a wide spectrum of views being expressed by submitters, all the issues will need to be carefully considered along with the decisions about what submission content is out of scope. These matters will also be worked through with the Panel in due course. Given the panel members’ availability, hearings are anticipated to occur during two weeks in April 2020.

### *Plan Change 3*

- 8.4. Plan change 3 is looking to incorporate key changes resulting from the Essential Freshwater package (as they relate to nutrient management) and nutrient management issues relating to intensive land use conversions and rotations. A science programme has been designed to investigate the approach to limits, values and targets in the proposed National Policy Statement for Freshwater Management 2020, released as part of the Essential Freshwater package in September 2019. While there is not yet confirmation on how the 23 suggested attributes will be finalised, there is a large body of technical work that will need to be completed to support policy development and inform the Council of their policy choices and trade-offs.
- 8.5. A land use study is currently being commissioned to support the further work required on nutrient management, particularly where new intensification could occur, or where there could be coordination of land intensification in less sensitive catchments being coupled with de-intensification in target catchments.

*Plan Change 4*

- 8.6. Plan change 4 focuses on the implementation of the National Planning Standards (effectively standardising table of contents, chapters and definitions) and minor administrative fixes that have been identified since implementation.
- 8.7. Increased resourcing in the Policy Team over the first half of 2020 will enable this work to build pace, and work towards the original intended timeframe for notification of late 2020. This work excludes the development and implementation of the required electronic planning documents system, as this will need to be developed at regional and/or territorial local authority scale. The development of an e-plan is technically complex, and Environment Canterbury have shared with other Councils that they have encountered a number of technical issues in the implementation of their e-plan that have been expensive and time consuming to resolve.

**9. FINANCIAL IMPACT**

- 9.1. There is no impact on existing budgets as a result of this report.

**10. RISKS AND MITIGATIONS**

- 10.1. Council staff have identified a range of risks for Plan Change 2, including technical complexity, scope, uncertainty, resourcing and timing. These, along with their mitigations, have been previously discussed with Council and will continue to be managed.

**11. SIGNIFICANCE**

- 11.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

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**ANNEXES**

- A One Plan evolution 10 year work plan
- B Proposed Hearing Panel Members Biography