

# HORIZONS REGIONAL COUNCIL

## PROPOSED ONE PLAN GENERAL HEARING:

### CHAPTER 1 SETTING THE SCENE CHAPTER 2 ADMINISTRATION CHAPTER 11 INTRODUCTION TO RULES CHAPTER 18 FINANCIAL CONTRIBUTIONS

#### SPEAKING NOTES FOR PRESENTATION TO THE HEARING PANEL 19<sup>TH</sup> JUNE 2009

1. **Report Authors:**

- (a) Clare Barton (Senior Consultant Planner) and Barry Gilliland (Policy Advisor Horizons Regional Council).
- (b) Roles:
  - Clare Barton is the principal author of the Planning Evidence and Recommendations Report March 2009 relating to Chapters 1, 2 and 11; and
  - Barry Gilliland is the principal author of the Planning Evidence and Recommendations Report March 2009 relating to Chapter 18.
- (c) We are happy to answer questions related to the two planning reports (February 2009 and supplementary report).

2. **This Presentation:**

- 1. The Chairperson's note to officers requests a presentation on each chapter of the proposed One Plan highlighting the *major elements of the approach taken* and the *main changes proposed* by officer reports.
- 2. Our presentation today will therefore focus on:
  - describing the key approach of Chapters 1, 2, 11 and 18 as publicly notified
  - changes that are recommended to respond to submissions
  - answers to the written questions forwarded by the Panel prior to the hearing
- 3. These speaking notes summarise the key points of our Planning Evidence and Recommendations Report and the Supplementary Report. They may oversimplify the detail found in these reports and any errors or inconsistencies with our reports are unintentional. The detail in the original reports should be considered as the correct version.

### **3. Chapter 1: Setting the Scene**

The purpose of this chapter is to provide a plain English introduction to the Plan. It outlines the Regional Council's strategy to identify and make substantial progress on the key resource management issues that need to be addressed in the Region. Chapter 1 does not contain any policy instruments.

The Regional Council has decided to focus on four key issues in the Proposed One Plan. These issues were identified following public consultation and are supported by a substantial amount of science. They are:

- Surface water quality degradation;
- Increasing water demand;
- Unsustainable hillcountry land use;
- Threatened native habitats.

Some submitters seek to have the scope of the issues altered or additional key issues identified in Chapter 1. I note that although these four issues will be the focus of Regional Council resources it does not mean that other resource management issues are not important. They are addressed in the Plan, but will have lower priority for Regional Council resources during the life of the Plan. The Regional Council's approach was presented in more detail by Helen Marr at the Overall Plan Hearing.

The approach taken by the Regional Council appears appropriate to achieve environmental improvement in key areas at an affordable rate. As a consequence, my response to submissions is to recommend that the general approach taken in Chapter 1 be retained, with some minor wording changes sought by some submitters to provide greater clarity.

### **4. Chapter 2: Administration**

The purpose of Chapter 2 is to provide administrative policies required in a regional policy statement. As notified, this chapter contained administrative policies required in a regional policy statement and policies relating to consent decision-making and compliance.

#### **Recommended Changes to the Structure of Chapter 2**

The key recommendation in Chapter 2 is the relocation of many of the policy instruments from this chapter into Part II of the Plan. These changes are signaled in an earlier s 42A report prepared by Ms Andrea Bell in relation to Chapter 5: Land. This relocation was sought in territorial authority submissions. The changes can be summarized as follows:

<b>Recommended Change</b>	<b>Reason for Change</b>
Move the general administration provisions in Chapter 2 (covering administration, cross-boundary issues, plan monitoring and plan review (being Sections 2, 2.1, 2.2 and 2.3) to a new Chapter 10A at the rear of Part I of the Plan to become Sections 10A to 10A.3.	It is considered more appropriate to have the implementation methods at the end of Part I rather than at the beginning, to allow for a more logical flow, i.e., issues, objectives, policies and then the methods.

Delete Issue 2-1 (Section 2.4).

As a result of moving the objective and policies to the new Chapter 11A in the Plan section an issue statement is no longer necessary, as issues do not need to be identified in the Plan.

Relocate Objective 2-1 and Policies 2-1 to 2-5 from Chapter 2 (Sections 2.5 and 2.6) to Chapter 11A in Part II of the Plan (become Objective 11A-2 and Policies 11A-4, 11A-5, 11A-6, 11A-7 and 11A-8).

The objectives and policies relate to resource consent and compliance matters which more appropriately sit in the Regional Plan. The rules will then follow these general objectives and policies.

Note: The Māori wording included under Objective 2-1 has been removed in relocating the objective into the Plan section. Te reo text is not included anywhere within the Plan section and therefore, to be consistent, the text has been removed.

Delete Section 2.8 (Anticipated Environmental Results) and Section 2.9 (Explanation and Principal Reasons).

The objective and policies have been moved into Part II and the Anticipated Environmental Results and Principal Reasons are associated with the objective and policies. Anticipated Environmental Results and Principal Reasons are not required by the Act to be included in a Regional Plan.

Although I am recommending substantial relocation, I do not recommend major changes to the provisions themselves and the general intent and philosophy of the Plan is retained.

### **Compliance and enforcement**

Tararua District Council, Horowhenua District Council and Rangitikei District Council seek to have a policy included which sets a process whereby consent holders can challenge and revoke non-compliance assessments. I consider that the question as to whether a consent holder is in compliance or not is a matter for the Courts to determine. The Regional Council's Compliance Team is developing a guideline which I consider is appropriate and therefore I do not recommend any changes on this matter. I do recommend the addition of the following words within Policy 11A-8, "Any defences the person may rely upon" to clarify that this is a matter that will be taken into account when considering enforcement procedures.

## **5. Chapter 11: Introduction to the Rules**

The purpose of this chapter in the Proposed One Plan is to provide general information and a summary table relating to the rules in the chapters that follow.

As a result of submissions it is recommended to separate Chapter 11 into two chapters. Chapter 11 will provide the introduction to the Regional Plan (as opposed to rules) and Chapter 11A will contain the General Objectives and Policies for the Regional Plan. Chapter 11A will also include provisions relocated from Chapter 2 Administration as outlined in the summary for Chapter 2.

The changes I recommend focus the content of Chapter 11 on the introduction to the Regional Plan and cover how the Plan is set out, how it will work and provide a guide to the rules. Chapter 11A will then focus on the General Objectives and Policies within the Regional Plan and provide policy guidance for Plan users and Plan administrators regarding consent duration, review and enforcement, regional rules, consent conditions and duration, consents review, sites with multiple activities and enforcement procedures.

### **Consent duration and common catchment expiry dates**

Many submissions, including those from the Territorial Authorities, seek to have more certainty around consent terms. I recommend changes to a relocated and amended Policy 11A-5 to provide greater certainty and guidance around the issue of consent duration.

Submissions were received from territorial authorities seeking exemption of infrastructure from Policy 11-4 Common Catchment Expiry or Review Dates. The submissions were accepted to the extent that consideration of the needs of infrastructure can be dealt with when considering the most appropriate balance between environmental protection and investment by the applicant (Policy 11A-5 (c)(v) derived from relocated and combined Policies 2-2 and 11-4).

However, territorial authorities remained concerned at the significant consent application workload that may arise from when a number of major consents expire at the same time. Meetings with territorial authorities have continued since the Planning Evidence Report and Recommendations Report was produced and very recently the Regional Council and territorial authorities have agreed in principle how common catchment expiry dates will be managed. A memorandum outlining this agreement is currently in preparation and I expect it to be presented by the territorial authorities when giving their evidence to the General Hearing on 2 July 2009.

### **Multiple activities and activities covering multiple sites**

It is proposed to add a provision into Policy 11A-7 to clarify that there may be circumstances where umbrella consents may result in consents being considered at their given status rather than the status of the most stringent consent.

## **6. Chapter 18: Financial Contributions**

Decisions requested by submitters to Chapter 18 range from deletion of the entire chapter to retention of the chapter as proposed. An underlying theme of submission points appears to be a concern that financial contributions will be used routinely and indiscriminately by decision-makers. These concerns are mainly related to the potential costs to applicants, but one submitter is concerned about the potential environment damage that financial contributions may allow.

The Regional Council has chosen to make financial contributions available as a decision-making option in consent processes. Financial contributions can only be imposed if they are provided for in a plan or a proposed plan (RMA section 108(10)), so deleting Chapter 18 is not recommended.

The policies are provided to meet the requirements of RMA section 108 (10) and provide guidance for decision-makers. A number of submissions seek clarification of policies to provide more certainty about when financial contributions will be imposed (and not imposed) and how the amount will be determined. Recommendations are made in response to these submissions where this will assist clarity and certainty.

Several submitters seek changes to Policy 18-2 that would result in identification of fixed amounts or use of specific methodologies so amounts can be calculated by consent applicants. Although this approach may be practical in the context of the reasonably predictable need for infrastructure in a Territorial Authority, it is not considered a practical approach in the regional context. This is because of the nature of the consent applications dealt with and the benefit of considering them on a case-by-case basis, should financial contributions be an appropriate way of dealing with significant adverse effects that can not be adequately avoided, remedied or mitigated.

I have considered expert evidence provided in response to the Planning Evidence and Recommendations Report and have recommended some further minor amendments to the Chapter. Although Meridian Energy Ltd sought deletion of Chapter 18, I note that expert evidence provided by Catherine Clarke for Meridian Energy Ltd indicates that deletion is no longer sought.

## **7. Notable matters potentially still in dispute:**

Although there may be points of difference with individual submitters where their submissions are recommended to be rejected, we believe that there are no issues with a significant body of submissions remaining in dispute. However we have not heard what individual submitters have to say in response to our Planning Evidence and Recommendations Report and Supplementary Report and cannot be entirely confident about this.

## **8. Hearing Panel questions and responses**

We now wish to turn specifically to the list of questions provided by the Hearing Panel prior to the Hearing.

**Clare Barton and Barry Gilliland**  
**19<sup>th</sup> June 2009**