

DECISION OF THE ENVIRONMENT COURT

MANAWATU – WANGANUI REGIONAL COUNCIL

PROPOSED ONE PLAN APPEALS

PART 1 – INTRODUCTION AND PRINCIPLES

PART 2 – LANDSCAPES AND NATURAL FEATURES

PART 3 – INDIGENOUS BIOLOGICAL DIVERSITY

PART 4 – SUSTAINABLE LAND USE/ACCELERATED EROSION

PART 5 – SURFACE WATER QUALITY – NON-POINT SOURCE DISCHARGES

**BEFORE THE ENVIRONMENT COURT**

**IN THE MATTER**

Decision No [2012] NZEnvC 182  
of appeals under cl 14 of Schedule 1 to the  
Resource Management Act 1991

**BETWEEN**

ANDREW DAY  
(ENV-2010-WLG-0000158)  
CHIEF OF THE NZ DEFENCE FORCE  
(ENV-2010-WLG-000144)  
EARNSLAW ONE LTD  
(ENV-2010-WLG-000146)  
FEDERATED FARMERS OF N Z  
(ENV-2010-WLG-000148)  
GENESIS POWER LTD  
(ENV-2010-WLG-000159)  
HANCOCK FOREST MANAGEMENT NZ LTD  
(ENV-2010-WLG-000161)  
HORTICULTURE NZ  
(ENV-2010-WLG-000155)  
MERIDIAN ENERGY LTD  
(ENV-2010-WLG-000149)  
MINISTER OF CONSERVATION  
(ENV-2010-WLG-000150)  
N Z FOREST MANAGERS LTD  
(ENV-2010-WLG-000164)  
N Z HISTORIC PLACES TRUST  
(ENV-2010-WLG-000147)  
N Z PORK INDUSTRY BOARD  
(ENV-2010-WLG-000151)  
N Z TRANSPORT AGENCY  
(ENV-2010-WLG-000153)  
OSFLO SPREADING INDUSTRIES LTD  
(ENV-2010-WLG-000143)  
P F OLSEN LTD  
(ENV-2010-WLG-000165)  
PROPERTY RIGHTS IN NEW ZEALAND INC  
(ENV-2010-WLG-000152)  
RAYONIER N Z LTD  
(ENV-2010-WLG-000162)  
TRUSTPOWER LTD  
(ENV-2010-WLG-000145)  
WANGANUI DISTRICT COUNCIL  
(ENV-2010-WLG-000156)  
WATER and ENVIRONMENTAL CARE  
ASSOCIATION INC  
(ENV-2010-WLG-000160)  
WELLINGTON FISH AND GAME COUNCIL  
(ENV-2010-WLG-000157)  
Appellants

**AND**

THE MANAWATU-WANGANUI REGIONAL  
COUNCIL  
Respondent



Court: Environment Judge C J Thompson  
Environment Commissioner K A Edmonds  
Environment Commissioner J R Mills

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DECISION ON APPEALS: PART 1 - INTRODUCTION AND PRINCIPLES

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Decision issued: 31 AUG 2012

Costs are reserved



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### *Introduction*

[1-1] The Proposed One Plan was notified by the Manawatu-Wanganui Regional Council on 31 May 2007. It was given the name *One Plan* because the Council took advantage of s80(2) of the RMA and merged into one document both a Regional Policy Statement (Part 1 of the One Plan) and a Regional Plan (Part 2). The Regional Council's *first generation* Plans were: the Manawatu Catchment Water Quality Plan, the Manawatu-Wanganui Beds of Rivers and Lakes and Associated Activities Plan, the Manawatu-Wanganui Region Oroua Catchment Water Allocation and River Flows Plan, the Manawatu-Wanganui Regional Air Plan, the Manawatu-Wanganui Regional Coastal Plan and the Manawatu-Wanganui Regional Land and Water Plan. Those six Plans have been operative since the 1990s and early 2000s – and the topics covered by them are incorporated into the One Plan.

[1-2] Throughout the Parts of the decision, we shall use the widely-adopted acronym *POP* in referring to the Proposed One Plan.

[1-3] The rohe of the Regional Council covers a substantial part of the central and southern North Island, incorporating parts of the Waitomo, Stratford and Taupo Districts, the whole of the Ruapehu, Rangitikei, Wanganui, Manawatu, Tararua and Horowhenua Districts, and Palmerston North City. Its topography varies from the largely rolling to flat and quite intensively farmed and cultivated expanses of Horowhenua and Manawatu, to the high mountains of the Tararua and Ruapehu Districts. Substantial rivers run through it, and it has a long, flat coastline to the west, and a shorter and much steeper coastline marking the eastern boundary of the Tararua District.

### *Approach to the hearing and the structure of the decision*

[1-4] As is indicated by the intitulement of this decision, the POP attracted a number of appeals, which was hardly surprising given its breadth of coverage and its approach as a second-generation regional planning document. Through extensive negotiations, Court-assisted mediation and expert witness conferencing, differences over many topics have been resolved. We take this opportunity to commend the parties, and their witnesses, for their willingness to constructively participate in those processes, and to thank those members of the Court who facilitated some of them.



Many of the concerns of appellants and those who had joined the proceedings as s274 parties were dealt with in that way, and they did not take part in the hearings.

[1-5] Broadly described, the topics still requiring resolution in at least some respects are: Landscapes and Natural Features; Biodiversity; Sustainable Land Use/Accelerated Erosion, and Surface Water Quality – Non-Point Source Discharges. The hearings were arranged to deal with each of those as a discrete topic.

[1-6] As the parties are aware, for a significant part of the hearing the evidence recording equipment failed. It appeared to be recording but in fact it was not. We have been able to rely upon the contemporaneous notes taken by the members of the Court to assist our collective memories of the evidence, and we have to say that they and the written briefs of evidence-in-chief have sufficed, as we heard little to substantively contradict the evidence-in-chief in the course of cross-examination.

[1-7] We should also say clearly that in coming to our conclusions we will not attempt a written review of all of the evidence we heard. To do so would make the decision of intolerable and unnecessary length. For instance, on the Surface Water Quality topic alone we had evidence from 47 witnesses, some of whom lodged two or three briefs. As is customary in this Court, the members of the Court pre-read the written briefs of each witness, so that only cross-examination, re-examination and clarifying questions from the Court was required after each witness was sworn. The evidence on some issues went to extremely fine levels of detail on aspects of modelling, for example, and we do not think it necessary to lay out all of that in considering the appropriate contents of relatively high-level policy documents.

[1-8] We propose to structure the decision so as to deal with the general background of POP and the legal principles we are to be guided by in considering the evidence and coming to decisions in this Part, and then have separate Parts dealing with the individual topics, as set out in para [1-5].



*The roles and functions of a regional council*

[1-9] The functions required of a regional council are extensive, and are set out in s30 of the RMA (and it is common ground that the Act as it stood between 2005 and 2009 is the version to be applied in dealing with these appeals). Section 30 is set out in full in Appendix 1 to this part of the decision. Of all the functions contained in that section, very few do not have some relevance in considering the outstanding topics of these appeals.

*A summary of requirements for regional policy statements and regional plans*

[1-10] Those functions are complemented by the contents required of a regional policy statement contained in s62, the full text of which is contained in Appendix 2.

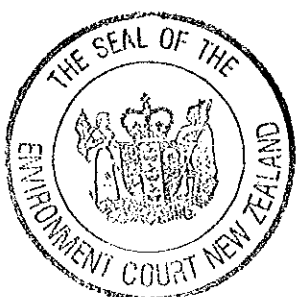
[1-11] The equivalent requirements for regional plans are in s67, and the full text of that section is in Appendix 3.

[1-12] Rounding out those requirements are the provisions of s32, set out at Appendix 4. These describe the evaluation required of the contents of a proposed plan or policy statement. In particular, we note subsections (3) and (4).

[1-13] Drawn from the Act, we set out a working summary of the matters to be taken into account in assessing and approving Regional Policy Statements and Regional Plans:

*Regional Policy Statements*

1. The purpose of a regional policy statement is to achieve the purpose of the Act (s59).
2. In relation to other RMA documents, the regional policy statement must:
  - not be inconsistent with any water conservation order;
  - give effect to a national policy statement;
  - give effect to a New Zealand Coastal Policy Statement (s62(3));
3. The regional council shall have regard to the extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils ((s61(2)(b)).
4. When preparing its regional policy statement the regional council shall:



- have regard to any management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations (s61(2)(a));
- take into account any relevant planning document recognised by an iwi authority (s61(2A)(a)); and
- not have regard to trade competition (s61(3)).

5. The regional policy statement should be prepared in accordance with the regional council's functions under s30, the provisions of Part 2, and its duty under s32 and regulations (s61).

6. The regional policy statement must state its significant issues, objectives, policies for the issues and objectives and methods (excluding rules) to implement the policies, principal reasons, environmental results, processes for dealing with cross boundary issues, the local authority responsible for specifying objectives, policies and methods (for various purposes in s62(1)(i)) and procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement (s62).

#### *Regional Plans*

1. The purpose of a regional plan is to assist a regional council to carry out its functions in order to achieve the purpose of the Act (s63).

2. When preparing its regional plan the regional council must give effect to any national policy statement or New Zealand Coastal Policy Statement (s67(3)).

3. The regional plan must not be inconsistent with any other regional plan for the region or a water conservation order or a determination of the Chief Executive of the Ministry of Fisheries about aquaculture permits (s67(4)).

4. When preparing its regional plan the regional council shall:

- (a) have regard to any proposed regional policy statement in the region (s66(2));
- (b) give effect to any operative regional policy statement (s67(3)(c));
- (c) have regard to the extent to which the plan needs to be consistent with the regional policy statements and plans or proposed regional policy statements and plans of adjacent regional councils (s66(2)(d)).

5. A regional plan must also record how it has allocated a natural resource under s30(1)(fa) or (fb) and (4), if it has done so (s67(4)).

6. When preparing its regional plan the regional council shall also:

- have regard to the Crown's interests in land of the Crown in the CMA (s66(2)(b));





- have regard to any management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations (s66(2)(c));
- take into account any relevant planning document recognised by an iwi authority (s66(2A)(a)); and
- not have regard to trade competition (s66(3)).

7. A regional council must prepare a regional plan in accordance with its functions under s30, the provisions of Part 2, any direction given by the Minister for the Environment, and its duty under s32 and any regulations (s66).

8. A regional plan must also state its objectives, policies to implement the objectives and the rules (if any) (s67(1)) and may (s67(2)) state other matters.

9. The rules (if any) are for the purpose of carrying out its functions (other than those in s30(1)(a) and (b)) and achieving the objectives and implementing the policies of the plan (s67(1)(c) and s68(1)).

10. In making a rule the regional council shall have regard to the actual or potential effect on the environment of activities (s68(3)).

#### *Part 2 of the RMA*

[1-14] Every decision made under the RMA must be guided by the provisions of Part 2 of that Act, which contains its purpose and principles. Three sections of Part 2 are to be considered. Section 8, requiring consideration of the principles of the Treaty of Waitangi has, of course, featured in the Council's work on POP to this point. But there are no Treaty issues directly arising from the matters we have to resolve, so we shall not set it out here.

[1-15] Section 7 contains matters to which decision-makers are to ... *have particular regard*:

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 have particular regard to—

- (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.

[1-16] Section 6 contains matters declared to be of national importance, which decision-makers are to *recognise and provide* for:

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 recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the 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, sites, waahi tapu, and other taonga.
- (f) the protection of historic heritage from inappropriate subdivision, use, and development.
- (g) the protection of protected customary rights.

There do not seem to be any issues directly arising under paras (e), (f) and (g), but one way or another all other matters of national importance arise and the POP must *...recognise and provide for ...* them.

[1-17] All of those issues lead to the purpose of the Act, contained in s5:

#### 5 Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means 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.

### Section 32

[1-18] Section 32 RMA requires an evaluation to be made of objectives, policies, rules and other methods contained in proposed policy statements and plans. The full text of the section is set out in Appendix 4. For present purposes the particularly relevant parts of the section are these:

(3) An evaluation must examine—

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

(3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.

(4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—

- (a) the benefits and costs of policies, rules, or other methods; and
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

[1-19] The requirements of the section will of course be met by at least some of the general reasoning of the decision-maker in coming to conclusions about the planning document in question, so that general reasoning can be referred to in explaining, in terms of s32, decisions about appropriateness, benefits and costs, and, where relevant, risks: see eg *Foodstuffs (Otago Southland) Properties Ltd v Dunedin CC* (1993) 2 NZRMA 497. The plan or statement provisions in question should be considered as a part of whole, and may overlap, or inter-relate with, others: see eg *Rational Transport Soc v N Z Transport Agency* HC Wellington CIV-2011-485-2259, 15 December 2011. The tests are to be read in the context of Part 2 of the Act, and not considered just in monetary terms: see *Port Otago Ltd v Dunedin CC* (C004/2002). And in assessing issues such as flora and fauna habitat, landscape, amenity and the impacts of such values on industry and farming communities, economic analysis will be of limited value: see *Minister of Conservation v Otago RC* (C0071/2002).



[1-20] In respect of each Part of the decision to follow, these are the principles we shall be guided by in coming to decisions as to whether the plan or RPS provisions in question meets the s32 requirements, but we will not repeat this recitation of them, or the decisions interpreting them, for each Part.

*Section 290A – the Council’s decision*

[1-21] Section 290A requires the Court to ... *have regard to* ... the first instance decision that is the subject of the appeal. In this set of appeals, DV POP contains that decision, made in this instance by a Hearings Panel under delegated authority from the Council. Section 290A does not mean that the first instance decision is presumed to be correct and that an appellant has the onus of demonstrating that it is incorrect. But it does require the Court to give the decision genuine and open-minded consideration in coming to its decision. There is also the view that where an issue is finely balanced on the material before the Court, the first instance decision can be given weight as an expression of informed local opinion on a matter of local significance. That might be the more so in a Plan appeal, where questions of policy are particularly significant: - see eg *H B Land Protection Soc Inc v Hastings DC* (W57/2009).

[1-22] In this series of appeals, we also should note that in the course of negotiation, mediation and expert witness conferencing before and during the hearing, the Council has been prepared to make a number of changes, some fundamental, to the provisions of DV POP. Those changes will be apparent as we move through the topics. So what we are dealing with now is not, in many respects, the *pure* decisions version of POP, and for those issues s290A is thus of limited or no practical effect. But some elements of the DV POP remain and we shall have regard to it accordingly. Where we differ from it, we shall endeavour to explain the reasons for so doing.

*Results*

[1-23] The outcomes will be indicated at the conclusion of each part of the decision. In many, if not all, cases the conclusions we reach may require redrafting of various provisions of POP. Several of the parties suggested, and we entirely agree, that the most efficient way of dealing with that will be to ask the Council, conferring where necessary with affected parties, to redraft the provisions and to then present the Court



with them for approval. To that extent, the Decision may be regarded as *interim*. We ask that the revisions and redrafted provisions be returned to the Court for consideration by Friday, 26 October 2012.

[1-24] In each case where changes to Plan provisions are required, there may need to be consequential changes to other provisions in the same *stream*. For instance, if a Policy requires redrafting, there may need to be consequential changes to Rules to ensure that they implement, or achieve, the objectives and policies of the plan. Similarly, policies may need attention to ensure that they continue to implement objectives, and so on.

[1-25] In the process of drafting those final versions, we think it will also be necessary to cross-refer to the draft Consent Orders already prepared to give effect to the mediated and negotiated outcomes. Various RPS and Plan provisions have been adapted since those agreements were made, and it may be necessary to revisit the terms of the draft Consent Orders.

#### *Costs*

[1-26] It is the usual practice of the Court to not make awards of costs on plan appeals, and we do not encourage any applications here. However, as a matter of formality, we shall reserve costs. If there is to be any application it should be lodged within 15 working days of the issuing of the final decision approving the Plan provisions, and any response should be lodged within a further 10 working days.



## Appendix 1 – full text of s30 – Functions of regional councils

## 30 Functions of regional councils under this Act

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b) The preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:

(c) The control of the use of land for the purpose of—

(i) Soil conservation:

(ii) The maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) The maintenance of the quantity of water in water bodies and coastal water:

(iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water:

(iv) The avoidance or mitigation of natural hazards:

(v) The prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(ca) the investigation of land for the purposes of identifying and monitoring contaminated land:

(d) In respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—

(i) Land and associated natural and physical resources:

(ii) the occupation of space on land of the Crown or land vested in the regional council, that is foreshore or seabed, and the extraction of sand, shingle, shell, or other natural material from that land:

(iii) The taking, use, damming, and diversion of water:

(iv) Discharges of contaminants into or onto land, air, or water and discharges of water into water:

(iva) The dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:

(v) Any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(vi) The emission of noise and the mitigation of the effects of noise:

(vii) Activities in relation to the surface of water:

(e) The control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—

(i) The setting of any maximum or minimum levels or flows of water:

(ii) The control of the range, or rate of change, of levels or flows of water:

(iii) The control of the taking or use of geothermal energy:



(f) The control of discharges of contaminants into or onto land, air, or water and discharges of water into water:

(fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:

- (i) the taking or use of water (other than open coastal water):
- (ii) the taking or use of heat or energy from water (other than open coastal water):
- (iii) the taking or use of heat or energy from the material surrounding geothermal water:
- (iv) the capacity of air or water to assimilate a discharge of a contaminant:

(fb) if appropriate, and in conjunction with the Minister of Conservation,—

- (i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:
- (ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:

(g) In relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—

- (i) Soil conservation:
- (ii) The maintenance and enhancement of the quality of water in that water body:
- (iii) The maintenance of the quantity of water in that water body:
- (iv) The avoidance or mitigation of natural hazards:

(ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:

(gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:

(h) Any other functions specified in this Act.

(2) A regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control the harvesting or enhancement of aquatic organisms to avoid, remedy, or mitigate —

- (a) the effects on fishing and fisheries resources of occupying a coastal marine area for the purpose of aquaculture activities;
- (b) the effects on fishing or fisheries resources of aquaculture activities.

(3) However, a regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), or (vii) to control the harvesting or enhancement of aquatic organisms for the purpose of conserving, using, enhancing, or developing any fisheries resources controlled under the Fisheries Act 1996.

(4) A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:

- (a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and
- (b) nothing in paragraph (a) affects section 68(7); and
- (c) the rule may allocate the resource in anticipation of the expiry of existing consents; and
- (d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—



- (i) allocate all of the resource used for an activity to the same type of activity; or
- (ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and
- (e) the rule may allocate the resource among competing types of activities; and
- (f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e).





## Appendix 2 – full text of s62 RMA – The required contents of a regional policy statement

### 62 Contents of regional policy statements

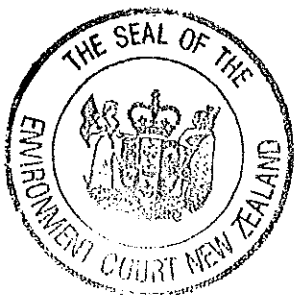
#### (1) A regional policy statement must state—

- (a) the significant resource management issues for the region; and
- (b) the resource management issues of significance to –
  - (i) iwi authorities in the region and
  - (ii) the board of a foreshore and seabed reserve to the extent that those issues relate to that reserve; and
- (c) the objectives sought to be achieved by the statement; and
- (d) the policies for those issues and objectives and an explanation of those policies; and
- (e) the methods (excluding rules) used, or to be used, to implement the policies; and
- (f) the principal reasons for adopting the objectives, policies, and methods of implementation set out in the statement; and
- (g) the environmental results anticipated from implementation of those policies and methods; and
- (h) the processes to be used to deal with issues that cross local authority boundaries, and issues between territorial authorities or between regions; and
- (i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land—
  - (i) to avoid or mitigate natural hazards or any group of hazards; and
  - (ii) to prevent or mitigate the adverse effects of the storage, use, disposal, or transportation of hazardous substances; and
  - (iii) to maintain indigenous biological diversity; and
- (j) the procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement; and
- (k) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

- (2) If no responsibilities are specified in the regional policy statement for functions described in subsection (1)(i)(i) or (ii), the regional council retains primary responsibility for the function in subsection (1)(i)(i) and the territorial authorities of the region retain primary responsibility for the function in subsection (1)(i)(ii).



(3) A regional policy statement must not be inconsistent with any water conservation order and must give effect to a national policy statement or New Zealand coastal policy statement.



### Appendix 3 – full text of s67 RMA – The required contents of a regional plan

#### 67 Contents of regional plans

(1) A regional plan must state—

- (a) the objectives for the region; and
- (b) the policies to implement the objectives; and
- (c) the rules (if any) to implement the policies.

(2) A regional plan may state—

- (a) the issues that the plan seeks to address; and
- (b) the methods, other than rules, for implementing the policies for the region; and
- (c) the principal reasons for adopting the policies and methods; and
- (d) the environmental results expected from the policies and methods; and
- (e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and
- (f) the processes for dealing with issues—
  - (i) that cross local authority boundaries; or
  - (ii) that arise between territorial authorities; or
  - (iii) that arise between regions; and
- (g) the information to be included with an application for a resource consent; and
- (h) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.

(3) A regional plan must give effect to—

- (a) any national policy statement; and
- (b) any New Zealand coastal policy statement; and
- (c) any regional policy statement.

(4) A regional plan must not be inconsistent with—

- (a) a water conservation order; or
- (b) any other regional plan for the region; or
- (c) a determination or reservation of the chief executive of the Ministry of Fisheries made under s186E of the Fisheries Act 1996.

(5) A regional plan must record how a regional council has allocated a natural resource under section 30(1)(fa) or (fb) and (4), if the council has done so.

(6) A regional plan may incorporate material by reference under Part 3 of Schedule 1.



## Appendix 4 – Full text of s32 RMA

### **32 Consideration of alternatives, benefits, and costs**

(1) In achieving the purpose of this Act, before a proposed plan, proposed policy statement, change, or variation is publicly notified, a national policy statement or New Zealand coastal policy statement is notified under section 48, or a regulation is made, an evaluation must be carried out by—

- (a) the Minister, for a national policy statement or a national environmental standard; or
- (b) the Minister of Conservation, for the New Zealand coastal policy statement; or
- (c) the local authority, for a policy statement or a plan (except for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of Schedule 1); or
- (d) the person who made the request, for plan changes that have been requested and the request accepted under clause 25(2)(b) of Part 2 of the Schedule 1.

(2) A further evaluation must also be made by—

- (a) a local authority before making a decision under clause 10 or clause 29(4) of the Schedule 1; and
- (b) the relevant Minister before issuing a national policy statement or New Zealand coastal policy statement.

(3) An evaluation must examine—

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of this Act; and
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

(3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine whether the prohibition or restriction it imposes is justified in the circumstances of the region or district.

(4) For the purposes of the examinations referred to in subsections (3) and (3A), an evaluation must take into account—

- (a) the benefits and costs of policies, rules, or other methods; and
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

(5) The person required to carry out an evaluation under subsection (1) must prepare a report summarising the evaluation and giving reasons for that evaluation.

(6) The report must be available for public inspection at the same time as the document to which the report relates is publicly notified or the regulation is made.

