BEFORE THE MANAWATU-WANGANUI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions to the Proposed 'One Plan' - OVERALL PLAN Section

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STATEMENT OF EVIDENCE
BY
DAVID FORREST

INTRODUCTION

1. My name is David James Forrest and I reside in Palmerston North. I am the Planner Principal of Good Earth Matters Consulting Limited, an environmental engineering, asset management, planning and resource management consultancy practice based in Palmerston North.

2. I hold the degrees of Bachelor of Arts (Hons) and Master of Science (Resource Management) and I am a full member of the New Zealand Planning Institute.

3. I have been engaged in planning and resource management practice for almost 30 years. In particular, I have been involved in the provision of planning and resource management advice for the preparation and administration of a number of District Plans in both the North and South Islands.

4. I have been requested by a Territorial Authority (TA) Collective (comprising the Horowhenua, Wanganui, Rangitikei, Ruapehu, Manawatu and Tararua District Councils) to prepare evidence in relation to common TA submissions to various aspects of the Proposed One Plan (POP).

5. I have read the Code of Conduct for the Expert Witnesses (Section 5 of the Environmental Court Consolidated Practice Note 2006) and agree to comply with this Code of Conduct in relation to these proceedings.

6. The main focus of the evidence to follow, is on a consideration as to whether or not the structure or form of the POP meets the requirements of the Resource Management Act 1991 (RMA or the Act), followed by brief comments on the need for certainty as to what is a permitted activity and the industry standards.

BACKGROUND

7. I and my TA planning and engineering colleagues work with the One Plan on a daily basis. It is essential that the One Plan is easy to understand and use. The reason that there are so many common TA submissions to the One Plan is that my TA planning and engineering colleagues have a number of common concerns as to how to interpret and apply the POP's provisions. If not resolved, they are likely to cause ongoing concerns and frustrations to all involved RMA processes, namely applicants, MWRC and TA staff, and other affected parties. I have worked closely with the TA planners and engineers to understand their concerns and to represent their concerns, in my words, by way of evidence. The evidence presented to you is not philosophically or academically driven but rather it stems from a "front desk", TA officer's, practical need to use the POP on a daily basis.

8. As a planning practitioner, the key question that I pose for myself when assessing any plan is:

   "Is the plan sufficiently certain to be understandable and functional?"

   In other words, I need to be able to understand what I can or cannot do in terms of the provisions of the plan and more importantly, how those provisions are to be applied, i.e. how they will be used. The need to be understandable and functional applies to not only plans as a whole, but also specific provisions of plans.

   Related to this question is a further question, namely “will this plan continue to be interpreted and applied in a coherent and consistent manner five years after the POP is made operative?” Most importantly, if (as I have experienced) staff changes result in rules being interpreted and applied differently in five years time, it follows that a greater modicum of certainty ought to be drafted into the POP now.

9. This need for sufficient certainty in the POP provisions to make them understandable and functional, is essential to my TA planning and engineering colleagues. Planners need to work with the POP at two different levels. At the District Plan development level, they must ensure that the regional policy statement (RPS) section of the POP is "given effect to" and that the provisions of the plan are "not inconsistent with” the provisions of the regional plan. At the district plan administration and consent processing level, the provisions of the POP must be considered when assessing the activity status of particular activities and their effects on the environment.

10. My TA engineering colleagues also need to work with the POP at several different levels. At the strategic planning and asset management level, provision has to be made in long term council community plans (LTCCP's) and asset management plans for community infrastructure (e.g. water, stormwater, waste, roads) in accord with statutory obligations (e.g. Health Act, Local Government Act).

    At another level, the operation and maintenance of existing assets, and consenting and monitoring of these activities and their effects, is also subject to the POP. Consenting and monitoring in relation to these assets and activities is a significant part of the operational duties and management carried out by my TA engineering colleagues.

    The third area of TA engineering work is assessing and reporting on the engineering and asset management / infrastructural aspects of resource consent applications (RCAs) in relation to subdivisions and landuse matters. Many of these assessments will require consideration of POP provisions.

11. Given the almost daily use to which the POP will be subjected in relation to these TA planning and engineering duties, it is essential that the plan be sufficiently certain to be understandable and able to be used (i.e. functional).

STRUCTURE / FORM OF THE PROPOSED ONE PLAN

12. The TAs have submitted that the POP is not sufficiently coherent and certain to be understandable and functional. I share this view. Figure 3 in the TA Collective Submissions in relation to this matter sets out the basic structure (form) of the One Plan (refer Appendix A – One Plan Structure and Linkages - attached). Amongst other things, what it shows is that there are no objectives stated for the Regional Plan section (Part II) of the One Plan. Objectives should be stated clearly in the Regional Plan wherever policies and rules are specified. Amongst other things, the RMA requires that a rule in a plan be evaluated by determining whether it achieves the objectives and policies of the plan (RMA Section 68(1)(b)). If the objective(s) to be achieved by particular policies and rules are not stated in the plan, I would question whether the requirements of the Act have been met. Section 67 RMA, in respect of the "contents of the regional plans", states that:

> *"(1) A regional plan must state -*
>
> *(a) the objectives for the region;*
>
> *(b) the policies to implement the objectives;*
>
> *(c) the rules (if any) to implement the policies."*

In my opinion, a clear pathway must be discernible between any rule and an objective(s). The rule only exists as a means of implementing policies and policies only exist to implement objectives. I have assumed, based on the Section 42A Officers Reports that the Council intends that the objectives set out in the various sections of Part I of the Plan (the RPS) are to also be the Regional Plan [RP (Part II)] objectives to be implemented by the policies and the rules specified in the Regional Plan (Part II) section of the POP. I do not accept that Objective 11-1 in Chapter 11 of the POP is acceptable as the only stated objective in the Regional Plan (Part II) Section of the POP.

13. As a practitioner, my experience has been that linkages can be tested by working from the bottom up. I note that the Ministry for the Environment in its guidelines to practitioners also suggests that the strengths of the linkages can be assessed by evaluating the links in reverse order, that is by working from the rules to the issues to the objectives. Using this approach, I have taken an example of an activity (bore drilling) and attempted to follow it through from the rule to the policies and through to the objective(s). This example is set out in diagramatic form, together with the relevant provisions of the POP, in Appendix B – One Plan Structure and Linkages – Bore Drilling Example.

14. The rule enabling drilling and bore construction is 15-13, as set out on page 15-11 of the Proposed One Plan. The activity is provided for as a “restricted discretionary”. There is no reference to a policy or policies in relation to this activity. My search as to how or why this rule is necessary leads me to page 15-1 and the policies for “Takes, Uses and Diversions of Water, and Bores”. Policy 15-3: Consent Decision Making for Bores provides the only indication as to a likely policy to which Rule 15-13 relates. Policy 15-3 states *“when making decisions on resource consent applications and setting consent conditions for the development and management of bores, the Regional Council will recognise and provide for Policy 6-22”*.

Policy 6-22 is found in the RPS (Part I) section of the POP on page 6-17. It refers to bore development and management. Policy 6-22(b) and (e) appear to me to be more like standards or rules rather than policies, so I wonder why they are not in the Regional Plan Section of the POP, rather than the RPS.

No cross reference is made directly to which objective or objectives are designed to be given effect to by means of Policy 6-22.

I have assumed that the relevant objective is 6-3, which refers to water quantity and allocation, and in particular to 6-3(b) which refers to ground water. In fact, Objective 6-3(b) encompasses a number of objectives. I have also assumed that Objective 6-3(c) would also apply as it relates to Policy 6-22(d)(ii), concerning the wastage of water in artesian conditions.

What this example illustrates is the difficulty in identifying clear linkages between rules, policies and objectives as required by sections 67 and 68 of the RMA.

A REGIONAL (COMBINED RPS/RP) COMPARISON

15. By way of comparison, I considered the same activity (i.e. bore drilling) in the same way using an adjoining regional council's plan, namely the Hawkes Bay Regional Resource Management Plan which became operative on 28 August 2006. The structure of the linkages between the provisions is illustrated in Appendix C – Hawkes Bay Regional Resource Management Plan – Example of Structure, attached to this evidence. The difference between the Hawkes Bay Regional Council's Plan and the Proposed One Plan is that there is clear reference from the rule to particular policies and these policies have reference to particular objectives, both in terms of the Regional Policy Statement section of the Plan and the Regional Plan section. In particular, the policies refer to particular objectives (42 and 43) located in the Regional Plan section referring to groundwater quality. In my opinion, this structure and the cross referencing and linkages provided meets the statutory requirements of sections 67 and 68 of the RMA. Whilst by no means perfect (there is no such thing as the perfect plan!), the Hawkes Bay Plan provides greater clarity and a greater modicum of certainty as to interpretation and application than does the POP. This is partly because of the cross referencing from the rule but also because the Regional Plan Section provides both policies and objectives within the regional plan provisions. The POP clearly does not do this.

AN ATTEMPT AT CROSS REFERENCING

16. In pre-hearing meetings with Regional Council staff, there was acknowledgement that there is a "gap" which could possibly be filled by cross referencing in order to be able to test whether there was agreement or disagreement with the suggested approach. To test whether cross referencing would achieve the requirements of Sections 67 and 68 RMA, I met with the Senior Planner, Wanganui District Council, Shane McGhie, and together we worked through a specific example based on a category of activity specified in the "Landuse Activities" section (Chapter 12) of the POP. We chose activity category activity '12-2 (Production Forestry)' and placed it in a theoretical location between Woodville and the Manawatu Gorge. We asked ourselves the question, "if we were to plant or harvest a production forest in this locality, which policies and objectives would relate to the rule enabling production forestry to occur?" We deliberately chose this activity, as it affects many of the TAs in the region, both from a RMA/planning perspective and from an infrastructure/asset management perspective in terms of possible impacts on roads.

17. The attached Appendix D – Attempt to Link Objectives, Policies and Rules by Cross Referencing, illustrates the bottom up approach to our attempt to cross reference this particular rule with the relevant policies and objectives. Rule 12-2 Production Forestry would, in our example, be classified as a "controlled activity". This is because 12-2(a)(i) *"provides that for areas where the land slope is between 0 degrees and 15 degrees within 10 metres of the bed of a river, lake or wetland"* and the activity is not accredited by the Forestry Stewardship Council programme [refer 12-2(d)], the activity would be controlled. Our site has a number of streams running through it and will be developed over time as resources permit and as trees become more valuable than cows.

18. There are four 'conditions/standards/terms' which apply to this category of activity. Conditions/standards (a), (b) and (c) can all be met. We do, however, have difficulty with condition/standard (d) which states that *"in the event of an archaeological site, waahi tapu or koiwi remains being discovered or disturbed while undertaking the activity, the activity shall cease and the Regional Council shall be notified as soon as practicable. The activity shall not be recommenced without the approval of the Regional Council."*

19. Logic says that a controlled activity requires an application and that an application would require to be granted prior to any work being undertaken. Therefore, it would not be possible to discover archaeological sites, waahi tapu or koiwi prior to the work being undertaken. We would therefore question why condition (d) is required. This is particularly so, given that the column specifying the matters over which control is reserved states, under (j), that procedures in the event of discovering or disturbing an archaeological site, waahi tapu or koiwi remains are a matter of control. A condition could therefore be placed on any consent in regard to this matter, which would only be given effect to if remains were discovered in the course of implementing the consent. No reference is made to any policies or objectives in this rule.

20. In an attempt to link the rules with policies and ultimately objectives, we then turned to Section 12-1 Policies, under the heading 'Land-Use Activities and Land-Based Biodiversity'. We would suggest that reference be made to Policies 12-1(a), 12-1(e), 12-1(h), 12-1(i) and 12-5.

    12-1(a) refers to the objectives and policies of Chapter 5 of the RPS. We would suggest that reference be made to Objectives 5-1(b) and 5-1(c), rather than a general reference to general objectives and policies in Chapter 5. Even then, we would question the appropriateness of using these objectives given their status within the Regional Policy Statement. That is, Objective 5-1 is designed to achieve Issues 5-1(a), (b) and (c), none of which are relevant to Rule 12-2 or Policy 12-1, 12-2 or Policy 12-1(a). Ideally, Objectives 5-1(b) and (c) would be redrafted to become objectives to be achieved in the Regional Plan Section of the POP.

    The next, rather oblique, reference to any policies or objectives is in Policy 12-1(e) which refers to the degree of compliance with the standards for managing surface water turbidity as set out in Chapter 6. We would question why standards (which are normally equated with rules) are set out in the Regional Policy Statement, which should not contain rules. Chapter 6, includes Objective 6-1 relating to Water Management Values and Objective 6-2 relating to Water Quality. Although not ideal, we would suggest that reference be made to Objectives 6-1 and 6-2(a).

    Policy 12-1(h) states that the Regional Council will have particular regard to "measures including, but not limited to, sediment and erosion control measures required to reasonably minimize adverse effects caused by rainfall and storm events". Again, there is no specific reference from this policy to any objectives stated in the POP, however, we would suggest that reference be made to Objectives 5-1(b) and 5-1(c). These are probably the key objectives relating to the potential effects arising from the particular activity that we are contemplating.

Policy 12-1(i) refers to the objectives and policies of Chapter 2, Chapter 3, Chapter 7 and Chapter 10. We considered that only objectives in Chapter 7 were relevant and in particular, 7-1 and 7-3. We note that Policy 12-5 also refers to policies and objectives in Chapter 7 and, again, we suggest that reference be made to Objectives 7-1 and 7-3. There may be instances where Objective 7-2 also requires consideration, although we do not consider it appropriate in this instance.

21. Having spent considerable time and effort attempting to discern how and why Rule 12-2 has been included in the POP, we reluctantly concluded that even if we were to cross reference in this manner, it will not provide the certainty or the confidence that the provisions will be interpreted in a consistent or coherent manner.

    In my opinion, this problem can only be overcome by making specific references from the Rules in the Regional Plan Section of the POP to Objectives and Policies, preferably as stated in the Regional Plan Section (Part II). The Council needs to look no further than the Hawkes Bay Regional Resource Management Plan for guidance as to an acceptable and RMA compliant form for the POP.

DISTINCTION BETWEEN RPS AND REGIONAL PLAN OBJECTIVES

22. Even if one was to assume that the rules in the Regional Plan could be cross referenced to the RPS Objectives, therefore providing the linkages and meeting the requirements of Section 67 RMA, there remains a question of how the TAs will be able to meet the “give effect to“ [any RPS – refer RMA Section 75(3)(c)] and “not be inconsistent with” [a regional plan for any matter specified in RMA Section 30 - refer Section 75(4)(b)] tests. Presumably, in preparing a District Plan, the more restrictive of the provisions would have to be taken into accouunt if the RPS Objectives were also the Regional Plan Objectives for the particular resource management matter under consideration.

23. Also, if a change were to be made to an existing RPS objective, it follows that a change would also be made to a Regional Plan objective which would call into question the adequacy of, and perhaps the need to change, the policies and rules in the Regional Plan as these are designed to "give effect to" the objective. It doesn’t necessarily follow that the purpose of a RPS objective and a Regional Plan objective would be the same. Therefore, it may not be appropriate that the Regional Plan objective be changed. Changes would therefore have to be looked at very carefully if a cross referencing approach were to be adopted.

24. A problem would also be created (as acknowledged by Helen Marr in her Section 42A Officer’s Report, page 27) that private plan change requests apply only to plan changes, not changes to an RPS. Therefore, if the same objectives are to apply for both the RPS and the Regional Plan, it severely limits the scope of any plan changes, as objectives and policies referred to from the Regional Plan but located in the RPS could not be changed. I am unsure as to whether or not this is a deliberate position adopted by the Council but, irrespective, it does appear to be unnecessarily restrictive.

25. Having read the Officers Reports, I remain of the opinion that there needs to be a clear distinction between the objectives in the RPS and objectives in the Regional Plan for no other reason, than the fact that they have a different RMA purpose. When writing Officers Reports in respect of applications or preparing a District Plan, I am of the view that my ability to carry out the TA’s statutory duties and functions under the RMA will be increasingly difficult, if not time consuming and costly. More clarity and certainty of both form and policy content is required.

POP (PART II) AND PERMITTED ACTIVITY RULES

26. The TA's submission on this matter submits that the POP provides for a number of activities as permitted activities where such activities are described as such in the Plan and where the activity complies with the 'conditions/standards/terms', if any, specified in a particular rule. As a planning practitioner, I have always understood that to be a "permitted activity", there must be no doubt or ambiguity or discretion reserved as to whether an activity is permitted or not. To be lawful, the status of a "permitted activity" must be certain. Throughout the Regional Plan Section (Part II) of the Plan, there are many 'conditions/standards/terms' qualifying the rules of permitted activities which are uncertain or ambiguous in their interpretation and/or application. It is my view that these uncertainties or ambiguities must be removed to provide certainty to those persons seeking to confirm or lawfully carry out "permitted activities". In particular, the Council must provide for permitted activities in such a way as to ensure that an unequivocal and timely decision can be made in respect of a request for a Certificate of Compliance (COC), pursuant to RMA S139. A certificate must state, without limitation of any kind, *"that a particular proposal or activity complies with the plan in relation to that location"* [S139(1)]. If the Council is not able to determine reasonably and with certainty whether or not a certificate can be issued in relation to a request, it follows that the activity ought not to be a permitted activity or requires amendment to clearly become one.

27. The following are some specific examples of activities classified as Permitted Activities where greater certainty is required.

    A number of rules rely on the use of maps in the Appendices included in the POP. These maps include, by way of example, Schedule A: Properties Containing Highly Erodible Land and Schedule I: Natural Hazards Floodable Areas (which show flood control schemes and river drainage schemes within the region). Rules within the Regional Plan section of the POP, such as rules in Chapter 16 relating to 'structures and activities involving the beds of rivers, lakes and artificial water courses and damming' and rules included in Chapter 12 relating to 'land use activities and land based biodiversity', rely on the use of maps for the classification of activities. The maps showing highly erodible land (and coastal highly erodible land) and flood control and river drainage schemes are maps of the entire region and are of a scale that makes the determination of whether or not specific sites are within highly erodible land or flood control/drainage schemes impractical. This means that it is virtually impossible for plan users to determine whether some activities are permitted or not because of their possible location within a certain type of area identified in the Regional Plan.

28. For example, Rule 12-1 states that any vegetation clearance pursuant to Section 9 of the RMA is permitted so long as it does not disturb any archaeological site/waahi tapu and, if it includes a volume of fill or excavation of more than 1000 cubic metres per year per property, erosion control and sediment control measures must be undertaken. However, if the vegetation clearance is to be undertaken on coastal highly erodible land or hillcountry highly erodible land, the standards of Rule 12-4 apply and the activity may be classified as a discretionary activity. The determination of whether the vegetation clearance is to occur in land that is highly erodible, as shown in Schedule A, becomes material to whether or not the activity will require resource consent. However, it is not possible to determine whether properties are on highly erodible land using Schedule A due to the scale and resolution of the map. Whilst this may not be the case if the property in question is clearly in the middle of one of the areas (hillcountry highly erodible, coastal highly erodible or not highly erodible land) shown on the map, in many instances it will be the case because one cannot determine where the 'boundary' of these areas is. The implications of this are that plan users will be left in doubt as to whether or not vegetation clearance is permitted by the Plan or requires

resource consent as a discretionary activity. I note that Ms Marr in her Officer's Report (p.38) states that Council's reporting officers will recommend that this highly erodible land map be removed and replaced with a description of the land it covers. I trust that this 'description' will be sufficiently detailed so as to provide the certainty required.

29. Another area of uncertainty involves a number of rules within the Plan which depend upon the 'sites of significance' classifications for water bodies included in the Plan. These classifications, and the locations to which they relate, are outlined in POP Table D.1 included in Schedule D: Surface Water Management Zones and Standards. In this table, each type of value group is identified, individual values within the group are listed, the management objective for the value is stated and the places where they apply are listed. For one of the values within the Recreational and Cultural Values value group, 'Sites of Significance - Cultural', the table states that the places where this value applies is "to be determined'. This creates a high level of uncertainty as to the classification of activities under a number of rules.

30. For example, if one were wanting to construct and use a low traffic volume bridge over a stream in a rural area, the name of which is unknown and which has a bed width of approximately three metres, to serve a private road off a non-arterial district road, RMA consent from the Regional Council would be required.

31. The activity fits under Rule 16-12 which applies to 'other structures (i.e. not dams, culverts, lines, cables, pipelines and ropeways as covered by rules 16-8 through 16-11) including bridges, fords and other access structures' which applies to:

> *"The erection, reconstruction, placement, alteration, or extension of any structure that is not regulated by any other rule in, on, under or over the bed of a river or lake pursuant to s 13(1) RMA and any associated:*
>
> *(d) disturbance of the river or lake bed pursuant to s 13(1) RMA,*
>
> *(e) damming or diversion of water pursuant to s 14(1) RMA, or*
>
> *(f) discharge of water or sediment pursuant to s 15(1) RMA."*
>
> [Note: the referencing is incorrect – (d) to (f) should be (a) to (c).]

Rule 16-12 classifies such activities as 'permitted' provided they meet a number of "conditions/standards/terms", each of which is discussed below in terms of the example bridge activity described above:

> *"(a) No new structure shall be erected or placed in:*
>
> *(i) a river or lake regulated under Rule 16-2"*

Rule 16-2 relates to activities in protected rivers. For the purpose of this example, it is assumed that the activity is not being undertaken in a protected river.

> *"(ii) a river or lake regulated under Rule 16-4'*

Rule 16-4 states, inter alia, that structures [other than those covered in subsections (c) and (d) of this rule, which the example activity is not] within water bodies identified as 'Sites of Significance – Cultural', are a discretionary activity. It is impossible to determine whether the water body over which the example bridge is to be built is a 'Site of Significance – Cultural' as areas to which this value applies are not yet defined in POP Table D.1. The table also does not include an explanatory or similar note guiding plan users as to how to interpret the 'to be defined' notation in POP Table D.1 for 'Sites of Significance – Cultural'. Such a note could state that until such time

as the areas to which this value applies are determined, the value does not affect the classification of activities under the Regional Plan. Whilst it may be reasonable to expect that this approach to the interpretation of the significance and applicability of the 'Sites of Significance – Cultural' will be taken until further definition is provided, it is considered that the current wording creates a level of uncertainty for plan users as to the applicability of this value and the implications for activity status. The example bridge activity may or may not be within a 'Site of Significance – Cultural', and the difference between the consideration of the activity as permitted versus discretionary has significant implications in terms of the time and potential costs associated with ensuring that the activity meets the statutory obligations set out in the Regional Plan.

> *"(iii) a waterway managed by the Regional Council within a flood control or drainage scheme, unless the work is undertaken by the Regional Council"*

A similar problem to that of the 'Sites of Significance – Cultural' arises in terms of determining whether or not a site is within a flood control or drainage scheme based solely on information contained within the Plan. Without an appropriately scaled, high resolution map, it may not be possible to tell where the 'line is drawn' in terms of what areas are within a flood control scheme or not, without contacting the Regional Council directly. Perhaps this is what is intended. The plan user, however, would now be in doubt as to the applicability of two aspects of the Regional Plan and its implications for the need, or otherwise, for a resource consent from the Regional Council for the construction of the bridge.

> *"(iv) a waterway within an urban area, unless the work is undertaken by a territorial authority."*

The Proposed One Plan does not include a definition of "urban area" and again plan users may be left in doubt as to whether this refers to non-rural zoned areas in fully serviced, relatively densely populated areas or otherwise. It is recognised that it is likely to be reasonable to assume that that 'urban areas' can be easily identified by plan users. However, in conjunction with the uncertainty as to the applicability of the 'Sites of Significance – Cultural' and whether or not a site is within a flood control or drainage scheme, it is considered that the further possible uncertainty as to where 'urban areas' are located is unacceptable.

> *"(b) For bridges and other access structures, except fords, located in or on the bed of a river or lake, the catchment area above the structure shall be no greater than 200 hectares."*

There are no problems of uncertainty relating to this subsection of Rule 16-12 as the catchment area can be calculated with a reasonable degree of certainty.

> *"(c) For all structures located in or on the bed or a river or lake, the structure shall occupy a bed area no greater than 20 m^2 except for whitebait and maimai structures which shall not exceed 5 m^2."*

There are no problems of uncertainty relating to this subsection of Rule 16-12 as the structure in question can be measured.

> *"(d) The structure shall be constructed and maintained to avoid any aggradation or scouring of the bed that may inhibit fish passage."*

There ought to be no problems having the design and construction of a structure approved as meeting this rule, however there remains an element of uncertainty relating to this subsection of

Rule 16-12, because of the need for a person with the necessary experience and expertise to state that aggradation or scouring of the bed will be avoided.

> *(e) The activity shall comply with the standard conditions listed in Section 16.2.*

Again, the same problem regarding 'Sites of Significance – Cultural' arises in the consideration of the example activity in relation to the standard conditions of Section 16-2 (Table 16.1). There are 22 standard conditions in this Section, which an applicant could say can be met. On what basis, or could, the Regional Council say that these conditions are not met when the activity is only at a proposed stage?

In summary, there are three aspects of Rule 16-12 that are likely to leave a plan user in doubt as to whether the example bridge requires resource consent or not, creating a high level of uncertainty as to the time and costs associated with its construction.

32. Notwithstanding the detailed examples provided, it is acknowledged that Ms Marr's officer's report (pg 39 and 40) states that, if any elements of uncertainty in the rules are found when the hearing panel is considering the rules under other topic hearings, the uncertain parts should be removed and/or replaced. My concerns and those of the TAs would be alleviated if this were to be done.

USE OF STANDARDS

33. The TAs have made a submission that the POP contains standards which appear to be arbritary in their determination. To me, the word 'appear' is the key word, in that it is difficult to discern from either the provisions in the POP or the S32 RMA report as to why particular standards have been adopted. It may well be that there is good reason why particular standards have been adopted but this is not obvious from reading the POP or the S32 RMA report.

34. An example, which particularly affects the TA asset managers, concerns the difference between the water quality standards in the POP and those in the Manawatu Catchment Water Quality Regional Plan (MCWQRP) in relation to BOD (biological oxygen demand) amongst others.

Table D.16 'Water Quality Standards for streams and rivers in Water Management Sub-Zones', sets the standards for BOD_5 (g/m^3) as

> *"The five-days biological oxygen demand shall not exceed […] grams per cubic metre."*

According to the heading to Table D.16, the numerical values of the water quality standards (indicated by the […]) are defined in Table 2. I cannot find Table 2. I have assumed that the reference to Table 2 should be a reference to Table D.17 in Schedule D. Depending on location in the particular management zone, the numeral standard is either 1 or 2 g/m^3.

In the MCWQRP, Rule 1(e) of this Plan defines BOD as follows:

> *"e. The daily average carbonaceous BOD_5 concentration due to dissolved organic compounds (that is, material passing through a GF/C filter), shall not exceed 2 g/m^3."*

In my limited understanding, the POP definition refers to Total BOD_5 whereas the MCWQRP Rule 1(e) refers to filtered $cBOD_5$. The former is a much higher standard to meet than the latter. This

may be intentional or it may be simply a definitional error. I tend to think it may be the latter, given that the Council's *"Recommended Water Quality Standards for the Manawatu-Wanganui Region: Technical Report to Support Policy Development"* recommends (p56) that the POP maintain the MCWQRP standard. However, there is nothing in the POP or S32 RMA Report which tells me why the change has been made.

This example is provided merely to illustrate the point that it is not possible to determine whether a standard is arbitrary or not. More detailed submissions and evidence will be presented in the appropriate hearing as specific standards are being considered. More examples in relation to water quality and other standards will be presented at that time.

35. I am happy to answer any questions that the Council's Hearing Commissioners may wish to put to me.

David Forrest
17 June 2008

APPENDIX A

One Plan Structure and Linkages

FIGURE 1
ONE PLAN STRUCTURE AND LINKAGES

PART I

REGIONAL POLICY STATEMENT (RPS)
(OUR REGION'S SIGNIFICANT ISSUES)

① SETTING THE SCENE

② ADMINISTRATION
- Cross Boundary Issues
- Plan Monitoring
- Plan Review

Includes Issues → Objectives → Policies → Methods → Anticipated Environmental Results → Explanations

KEY
④ Refers to Chapters in Proposed 'One Plan'.

Issues
Objectives
Policies
Methods (Regulatory & Non Regulatory)
Anticipated Environmental Results
Explanations & Principal Reasons

③ INFRASTRUCTURE ENERGY & WASTE

④ TE AO MAORI
Environmental Management

⑤ LAND
Accelerated Erosion
Degraded Soil Health

⑥ WATER
Quantity and Allocation
Quality

⑦ LIVING HERITAGE
Indigenous Biodiversity
Landscapes & Natural Character

⑧ AIR
Ambient Air Quality
Fine Particle (PM_{10}) Levels

⑨ COASTAL
Integration of CMA with wider Coastal Environment
Appropriate Use & Development in the CMA

⑩ NATURAL HAZARDS
Effects of Natural Hazard Events

PART II

REGIONAL PLAN

⑪ INTRODUCTION TO RULES
- 11.1 Introduction to Part II (Users Guide; Activity Classifications; Summary of Rules
- 11.2 General Objectives and Policies

OBJECTIVES (NOT SPECIFIED)

Policies (12-1 to 12-5)

Rules
- 12-1 Vegetation Clearance (not covered by other rules)
- 12-2 Production Forestry
- 12-3 Land Disturbance
- 12-4 Vegetation Clearance
- 12-5 Vegetation Clearance (near water bodies)
- 12-6 Vegetation Clearance not complying with rules
- 12-7 Activities within at-risk habitats
- 12-8 Activities within rare and threatened habitats, including wetlands

⑫ Land Use Activities and Land-Based Biodiversity

⑬ Discharges to Land & Water

⑭ Discharges to Air

⑮ Takes, Uses and Diversions of Water and Bores

⑯ Structures and Activities involving Beds of Rivers, Lakes and Artificial Waterways and Damming

⑰ Activities in Coastal Marine Area (CMA)

⑱ Financial Contributions

PART III

ANNEXES

APPENDIX B

One Plan Structure and Linkages
Bore Drilling Example

FIGURE 2
ONE PLAN STRUCTURE
AND LINKAGES
BORE DRILLING EXAMPLE

KEY
④ Refers to Chapters in Proposed 'One Plan'.

PART I

REGIONAL POLICY STATEMENT (RPS) (OUR REGION'S SIGNIFICANT ISSUES)

①	SETTING THE SCENE
②	ADMINISTRATION - Cross Boundary Issues - Plan Monitoring - Plan Review

Includes Issues → Objectives → Policies → Methods →
Anticipated Environmental Results → Explanations

Issues
Objectives
Policies
Methods (Regulatory & Non Regulatory)
Anticipated Environmental Results
Explanations & Principal Reasons

Objs 6 - 3(b) and (c)
Policy 6 - 22

③ INFRASTRUCTURE ENERGY & WASTE

④ TE AO MAORI
Environmental Management

⑤ LAND
Accelerated Erosion
Degraded Soil Health

⑥ WATER
Quantity and Allocation
Quality

⑦ LIVING HERITAGE
Indigenous Biodiversity
Landscapes & Natural Character

⑧ AIR
Ambient Air Quality
Fine Particle (PM_{10}) Levels

⑨ COASTAL
Integration of CMA with wider Coastal Environment
Appropriate Use & Development in the CMA

⑩ NATURAL HAZARDS
Effects of Natural Hazard Events

PART II

REGIONAL PLAN

⑪	INTRODUCTION TO RULES
	11.1 Introduction to Part II (Users Guide; Activity Classifications; Summary of Rules
	11.2 General Objectives and Policies

NO OBJECTIVE(S)

OBJECTIVES
Policies
Rules

Policy 15 - 3 Consent decision making for bores (Reference to Policy 6 -22)
Rule 15 - 13 - Drilling and bore construction (Restricted discretionary)

⑫ Land Use Activities and Land-Based Biodiversity

⑬ Discharges to Land & Water

⑭ Discharges to Air

⑮ Takes, Uses and Diversions of Water and Bores

⑯ Structures and Activities involving Beds of Rivers, Lakes and Artificial Waterways and Damming

⑰ Activities in Coastal Marine Area (CMA)

⑱ Financial Contributions

PART III

ANNEXES

15.4 Rules – Bore Drilling and Bore Sealing

Rule	Activity	Classification	Conditions/Standards/Terms	Control/Discretion Non-Notification
15-13 **Drilling and bore construction**	The drilling, construction or alteration of any bore or hole that extends below the seasonally highest groundwater level, and any associated discharge of water or contaminants.	**Restricted discretionary**		Discretion is restricted to: (a) compliance with the NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock (b) bore location, size and depth (c) bore screening (d) backflow prevention

15 Takes, Uses and Diversions of Water, and Bores

15.1 Policies

Policy 15-1: Consent decision-making for takes and uses of surface water and groundwater

When making decisions on resource consent applications, and setting consent conditions, for takes and uses of surface water the Regional Council will:

(a) recognise and provide for the provisions of Chapter 6, in particular the Policies in Section 6.4.3

(b) seek to avoid any adverse effects on other lawful activities, particularly other water takes

(c) have regard to the objectives and policies of Chapters 2, 3 and 7 to the extent that they are relevant to the activity.

Policy 15-2: Consent decision-making for diversions and drainage

When making decisions on resource consent applications, and setting consent conditions, for the diversion of water including diversions associated with drainage the Regional Council will:

(a) recognise and provide for the provisions of Chapter 6

(b) manage effects on rare and threatened habitats* and at-risk habitats* in accordance with Chapter 7

(c) manage effects on the natural character of waterbodies in accordance with Chapter 7

(d) recognise and provide for the provisions of Chapter 10, in relation to flood risk

(e) seek to avoid any adverse effects on any other lawful activity, including water takes.

Policy 15-3: Consent decision making for bores

When making decisions on resource consent applications and setting consent conditions for the development and management of bores, the Regional Council will recognise and provide for Policy 6-22.

Policy 15-4: Monitoring requirements of consent holders

Water takes shall generally be subject to the following monitoring requirements:

6.4.3.3 Policies for Bores and Groundwater

Policy 6-21: Overall approach for bore management and groundwater allocation

(a) New bores* shall be constructed and managed in accordance with Policy 6-22.

(b) Total groundwater allocations shall comply with the annual allocable volumes for groundwater management zones set out in Policy 6-23.

(c) The measured and/or modelled effects of a proposed groundwater take on other groundwater users, surface waterbodies and saltwater intrusion shall be managed in accordance with Policies 6-24, 6-25 and 6-26.

Policy 6-22: Bore development and management

(a) New bores* shall be sited to ensure adequate separation from existing bores*, and to avoid an over-concentration of bores* in a particular area, wherever practicable.

(b) New bores* shall generally be constructed, and bore* logs and other records prepared, in accordance with the NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock.

(c) New bores* shall be designed to ensure a high degree of efficiency with respect to bore development, bore* depth and diameter, and screen depth and length.

(d) New bores* shall be sited, constructed and used in a manner that prevents:

(i) contaminants from entering the bore* from the land surface
(ii) the wastage of water in artesian conditions.

(e) Bores* that are no longer required shall be decommissioned in general accordance with the NZS 4411:2001 Environmental Standard for Drilling of Soil and Rock.

Policy 6-23: Groundwater Management Zones

The total amount of groundwater taken from each groundwater management zone mapped in Schedule C shall comply with the annual allocable volume specified in Schedule C.

Objective 6-3: Water quantity and allocation

Water is managed to enable people, industry and agriculture to take and use water to meet their reasonable needs while ensuring that:

(a) For surface water:

(i) minimum flows and allocation regimes are set for the purpose of maintaining the existing life-supporting capacity of rivers and providing for other values of rivers as necessary

(ii) in times of water shortage, takes are restricted to those that are essential to the health or safety of people, communities or stock, and other takes are ceased

(iii) the amount of water taken from lakes does not compromise their existing life-supporting capacity

(iv) the requirements of Water Conservation Orders and Local Water Conservation Notices are upheld.

(b) For groundwater:

(i) takes do not cause a significant effect on the long-term groundwater yield

(ii) groundwater takes that are hydrologically connected to rivers, lakes or wetlands are managed within the minimum flow and allocation regimes established for those waterbodies, or to protect their life-supporting capacity

(iii) the effects of a groundwater take on other groundwater takes are managed

(iv) saltwater intrusion into coastal aquifers, induced by groundwater takes, is avoided.

(c) In all cases, water is used efficiently.

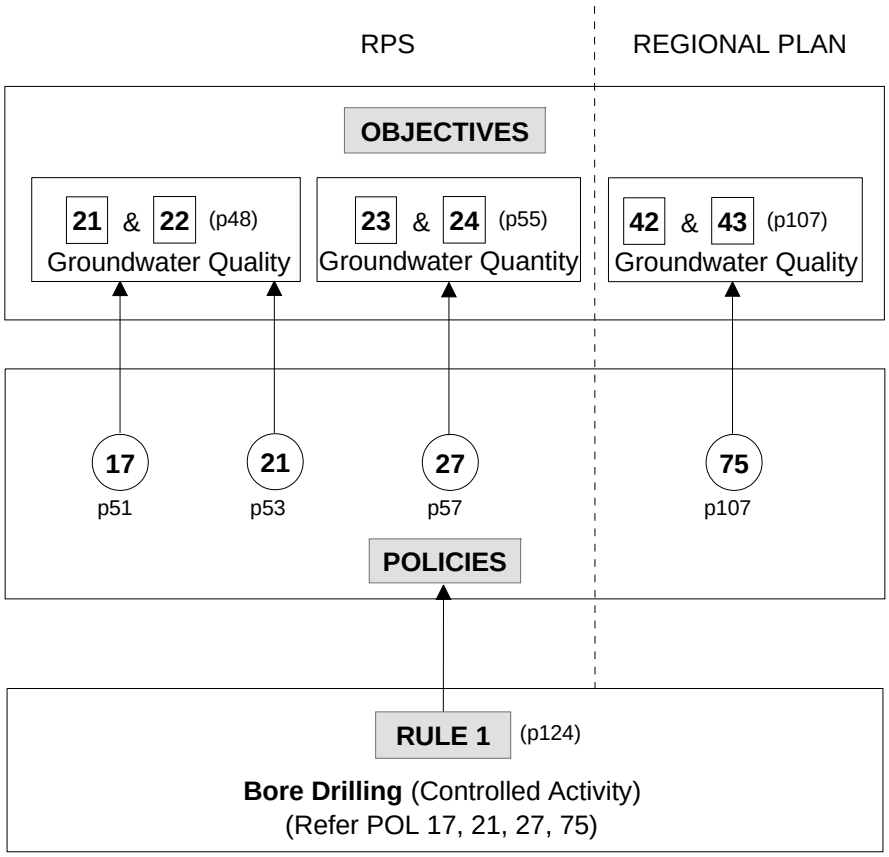
APPENDIX C

Hawkes Bay Regional Resource Management Plan Example of Structure

HAWKES BAY REGIONAL RESOURCE MANAGEMENT PLAN
(operative 28 August 2006) (on line version)

Example of Structure

p124 Rule 1 – Bore Drilling



Regional Resource Management Plan

Regional Resource Management Plan 2006

The Regional Resource Management Plan (RRMP) is the most significant resource planning document for all resource users in Hawke's Bay and was made operative in August 2006.

It sets out a policy framework for managing resource use activities in an integrated manner across the whole of the Hawke's Bay region. It was prepared under the Resource Management Act 1991 (RMA) and has effect over the whole of the Hawke's Bay region.

Note: The Regional Policy Statement section of this document recognises the regional significance of the coastal marine area of Hawke's Bay. However rules covering the Coastal Marine Area are covered in the Regional Coastal Plan (except for the discharge of contaminants into air), and the Proposed Regional Coastal Environment Plan.

It replaces the Regional Policy Statement (1995), and the following regional plans prepared earlier under the RMA - the Regional River Bed Gravel Extraction Plan (1994); the Regional Waste and Hazardous Substances Plan (1995); the Regional Air Plan (1998); and the Regional Water Resources Plan (2000).

Title

3.8 Groundwater Quality

ISSUE

3.8.1 **The risk of contamination of groundwater arising from**

(a) horticultural, agricultural and industrial land use practices

(b) discharges of contaminants, including the cumulative effects of domestic sewage discharges from unsewered communities

(c) spills

particularly in the Heretaunga Plains and Ruataniwha Plains aquifer systems, and coastal aquifers.

OBJECTIVES

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[7] 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.

Explanation and Reasons

Heretaunga Plains

3.8.2 The most significant groundwater resource in Hawke's Bay is the Heretaunga Plains aquifer system. During the past 20 years there has been an intensification of rural land use activities, and expansion of urban areas, on the Heretaunga Plains. In the area of the unconfined aquifer there is the potential for adverse effects on groundwater by infiltration of contaminants such as bacteria, nutrients and chemicals through the highly permeable gravels. The risk of contamination arises from a number of activities, including:

(a) on-site sewage disposal (particularly septic tanks)

(b) the use, transport and storage of hazardous substances, including hydrocarbon fuels and agrichemicals

(c) industrial discharges

(d) intensive horticultural and agricultural land uses

(e) stormwater discharges

(f) landfills and offal holes, and

(g) mining and quarrying.

3.8.3 The groundwater quality in the Heretaunga Plains aquifer system has been investigated and documented in Dravid and Brown (1997). Investigations are continuing. Overall, present groundwater quality is high. Indeed, the quality is such that groundwater is used for domestic supply in Napier and Hastings without treatment. However, as early as 1974 it was recommended that urban development and the storage of hazardous substances be prohibited from the unconfined aquifer area, and that a precautionary approach be taken with respect to future development.

3.8.4 The HBRC has been systematically monitoring groundwater quality on an ongoing basis since 1994. The results show:

(a) Groundwater quality is high, with only minor contamination evident as a result of identifiable sources, notably the Roys Hill landfill and septic tanks, and diffuse nitrate pollution from intensive land use activities.

(b) There is a high risk of groundwater contamination from infiltration of contaminants into the unconfined aquifer.

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7 **Productive aquifers** – For the purposes of this Regional Plan, a "productive aquifer" means an aquifer that has a sufficient quality, quantity and flow of water that it can be used for water supply purposes.

3.9 Groundwater Quantity

ISSUE

3.9.1 **The significant adverse effects of groundwater takes on the overall groundwater and surface water resource and existing groundwater users.**

OBJECTIVES

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[8].

Explanation and Reasons

3.9.2 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.

3.9.3 The Heretaunga Plains aquifer system is the most important groundwater resource in Hawke's Bay. Studies to date have concluded that the overall rate of groundwater abstraction does not exceed the rate of recharge (Dravid and Brown, 1997). Recharge to the main aquifer system is from the Ngaruroro and Tutaekuri Rivers, and direct infiltration of rainfall on the unconfined aquifer. At the time of writing this Plan, the annual volume of water abstracted from the main aquifer system was estimated to be between 60 and 70 million cubic metres, with much more water used during summer than winter (as a result of irrigation). On the basis of existing information the present abstraction rate appears sustainable. Overall piezometric pressures in the confined aquifer have not shown any decline in recent decades, although levels in the unconfined aquifer may have declined slightly over the past 20 years in accordance with climatic trends.

3.9.4 However, groundwater use is likely to rise in future, particularly during summer. The main effects of this are likely to be:

(a) An increase in the amplitude of seasonal fluctuations in aquifer levels, in particular lowering groundwater levels during summer and autumn periods.

(b) Greater conflict between groundwater users, where the pumping from one bore lowers groundwater levels in adjacent bores, and

(c) A possible reduction in spring flows (i.e. less groundwater would emerge as springs) and consequential potential reduction in water quantities within wetlands, rivers and lakes.

3.9.5 The aquifer system largely adjusts through a re-equilibration, rather than a significant, permanent lowering of groundwater levels. Indeed, the groundwater system has adjusted in this way to accommodate past increases in groundwater use. Groundwater level data suggest that the range of seasonal fluctuations in the unconfined aquifer has increased from about 1 m in 1975 to about 2-2.5 m in 1995. Groundwater use is estimated to have increased by 150% in that time. However, the range of seasonal fluctuations in the confined aquifer has not changed as markedly over this time (Dravid and Brown, 1997).

3.9.6 While the availability of groundwater is sufficient at present in the main aquifer system, problems are apparent in fringe areas. In the southern and eastern margins of the main aquifer system the availability of groundwater is restricted by a combination of factors: the thinness of aquifers, the variable permeability of aquifers, and the limited hydraulic connection to main recharge channels. As a consequence, seasonal fluctuations in groundwater levels in these areas are in the order of 3 to 5 m (Dravid and Brown, 1997). In recent years, a large number of wells have been drilled along the southern margin of the Heretaunga Plains due to land subdivision and increased need for irrigation water supply. Many old domestic and stock water supply wells along this margin are relatively shallow, and can dry up during summer.

3.9.7 Demand for groundwater from the Ruataniwha Plains aquifer system is increasing, particularly as a result of increasing dairying and process cropping in this area. Less is known about the available groundwater resources in this area.

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[8] For the purposes of this Plan "**efficient taking**" of groundwater means abstraction by a bore which penetrates the aquifer from which water is being drawn at a depth sufficient to enable water to be drawn all year (i.e. the bore depth is below the range of seasonal fluctuations in groundwater level), with the bore being adequately maintained, of sufficient diameter and is screened to minimise drawdown, with a pump capable of drawing water from the base of the bore to the land surface.

5.6 Groundwater Quality

OBJECTIVES

OBJ 42 No degradation of existing groundwater quality in aquifers in the Heretaunga Plains and Ruataniwha Plains aquifer systems.

OBJ 43 The maintenance or enhancement of groundwater quality in unconfined or semi-confined productive aquifers[19] 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.

Refer section 2.2 of this Plan

POLICIES

POL 75 ENVIRONMENTAL GUIDELINES - GROUNDWATER QUALITY

5.6.1 To manage the effects of activities affecting the quality of groundwater in accordance with the environmental guidelines set out in Table 10.

Table 10. Environmental Guidelines – Groundwater Quality

Issue	Guideline
CONFINED, PRODUCTIVE AQUIFERS IN THE HERETAUNGA PLAINS AND RUATANIWHA PLAINS AQUIFER SYSTEMS (as shown in Schedule IV)	
1. **No degradation**	There should be no degradation of existing water quality.
OTHER PRODUCTIVE AQUIFERS	
1. **Human consumption**	The quality of groundwater should meet the "Drinking Water Quality Standards for New Zealand" (Ministry of Health, 1995) without treatment, or after treatment where this is necessary because of the natural water quality.
2. **Irrigation**	The quality of groundwater should meet the guidelines for irrigation water contained in the "Australian Water Quality Guidelines for Fresh and Marine Waters" (Australian and New Zealand Environment and Conservation Council, 1998) without treatment, or after filtration where this is necessary because of the natural water quality.

[19] For the purposes of this Plan a "**productive aquifer**" means an aquifer that has a sufficient quantity, quality and flow of water that it can be used for water supply purposes.

POL 17 DECISION-MAKING CRITERIA – ACTIVITIES AFFECTING GROUNDWATER QUALITY

3.8.15 To manage the effects of activities that may affect the quality of groundwater in accordance with the following approach:

(a) To ensure that all activities, particularly discharges of contaminants onto or into land, comply with the environmental guidelines for groundwater quality, and the associated implementation approach, set out in Policies 75 and 76.

(b) To encourage discharges of contaminants onto or into land where these are likely to have less adverse effect than discharges into water.

(c) To consider the effects of the taking of groundwater on the quality of groundwater, including the potential for salt water intrusion.

(d) To prevent or minimise spills or other breaches of resource consent conditions causing contamination of groundwater, particularly in those areas of high contamination vulnerability for the Heretaunga Plains aquifer system as shown in the DRASTIC map in Schedule V, by requiring the preparation and implementation of site management plans and spill contingency measures for relevant activities.

(e) To disallow any discharge activity which presents a significant risk of groundwater contamination in those areas of high contamination vulnerability for the Heretaunga Plains aquifer system as shown in the DRASTIC map in Schedule V.

Explanation and Reasons

3.8.16 Policy 17 sets out the overall approach for the management of all activities which may adversely affect groundwater quality.

POL 18 DECISION-MAKING CRITERIA – ON-SITE SEWAGE DISCHARGES

(a) Discharges over the Heretaunga Plains Unconfined Aquifer

3.8.17 For consent applications for on-site sewage discharges over the Heretaunga Plains unconfined aquifer area, to require a treatment and disposal system that meets the following criteria:

(i) A filtration system which reduces the level of suspended solids to a maximum of 10 g/m^3.

(ii) A land application method which achieves even distribution over the entire field.

(iii) For discharges of greater than 2 m^3/d and/or irregular use, a land application method which has been demonstrated to function with the required discharge volume and/or irregular loading.

3.8.18 For any systems existing at the date of public notification of this Plan which are unable to meet the conditions set out in the rules, compliance with the conditions must be achieved within five years of this Plan provision becoming operative, or this particular provision being beyond legal challenge.

(b) Discharges in areas with a high water table

3.8.19 For consent applications for on-site sewage discharges where the water table is likely to be within 600 mm of the point of discharge at any time, to require a level of treatment and disposal at the point of discharge such that the effluent meets the following criteria:

(i) A treatment system which reduces the level of faecal coliform bacteria to a maximum of 1000 cfu/100 mls.

POL 19 DECISION-MAKING CRITERIA – EFFECTS OF FRESHWATER PASTURE IRRIGATION ON AGRICULTURAL EFFLUENT DISPOSAL AREAS

3.8.26 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.

Explanation and Reasons

3.8.27 The effect of pasture irrigation can be managed through the resource consent process. Policy 19 indicates HBRC's preferred approach to managing this effect as part of the integrated management of the agricultural effluent disposal process. For the purposes of this policy the capacity of the soil encompasses the soil moisture holding capacity, the infiltration rate and the nutrient absorbing capacity of the pasture.

POL 20 DECISION-MAKING CRITERIA – AGRICULTURAL EFFLUENT DISCHARGES IN SENSITIVE CATCHMENTS

3.8.28 To manage the effects of discharges of agricultural effluent, particularly dairy shed effluent, onto land in sensitive catchments as shown in Schedule VIb in a manner that is in accordance with the objectives and policies of this Plan, and which:

(a) Takes into account the cumulative effects of the discharges, from all agricultural activity carried out on the same land, by requiring the provision with any resource consent application of a total farm balance of the nutrient inputs, transfers and outputs which demonstrates that the nitrogen leaching potential is minimised.

(b) Integrates the management of other activities which may have an impact on the effects of the agricultural effluent discharge.

Explanation and Reasons

3.8.29 Policy 20 sets out additional decision-making criteria for discharges of agricultural effluent onto land. This policy recognises the need for integrated management of agricultural effluent in a manner that takes into account not only the effects of the discharge, but also the effects of other activities such as pasture irrigation, stock feeding, and stocking densities.

3.8.30 The policy recognises also that while leaching of nitrogen through the soil to shallow groundwater is not a significant issue in many areas, there are a number of highly sensitive catchments within the region, for which even minor changes in nitrate levels may impact significantly on the state of the resource.

POL 21 DECISION-MAKING CRITERIA - BORE CONSTRUCTION

3.8.31 To ensure that bores are drilled, constructed and maintained in a manner which avoids any contamination or cross-contamination of groundwater aquifers, and which does not allow any seepage or backflow of contaminants into groundwater.

Explanation and Reasons

3.8.32 Policy 21 sets out additional decision-making criteria for bore construction, addressing the need to avoid aquifer cross-contamination, and the ingress of contaminants down the bore.

POL 25 REGULATION - TRANSFER OF WATER PERMITS

3.9.12 To allow the transferring of water permits between sites within the same aquifer, where the environmental effects of the transfer are minor and where the transfer:

(a) Will not cause any significant interference with existing lawful takes that make efficient use of the resource.

(b) Is to a location at which the aquifer has the same or greater aquifer transmissivity and storage characteristics, and

(c) Will not cause any adverse effects on springs or other surface water resources.

Explanation and Reasons

3.9.13 The transfer of water permits enables greater flexibility and efficiency in managing and allocating water resources, and can be an effective way of ensuring water is used where it is most needed. The principal advantage of transferable water permits is that the allocations are not wasted by a permit holder keeping an allocation but not using it, while another user is forced to apply for a new permit.

POL 26 DECISION-MAKING CRITERIA – LOCATION OF NEW BORES

3.9.14 To ensure that new bores are located in a position that minimises any interference effects on existing lawful efficient users and HBRC monitoring bores, taking into account:

(a) The proposed aquifer the new bore is to be completed in.

(b) The characteristics of the aquifer (such as transmissivity and storativity) which influence the amount and extent of drawdown that may occur as a result of pumping from the proposed bore.

(c) The depth and purpose of the new bore in relation to existing bores.

Explanation and Reasons

3.9.15 Policy 26 aims to minimise, if not prevent, interference with existing lawful efficient uses. The amount and extent of the lowering of the groundwater levels is determined by how fast the water is able to move through the aquifer (the transmissivity), how much water is held within the aquifer (storativity) and how fast the water is to be pumped out of the bore. Consideration needs to be given to these effects at the time the bore is to be drilled. HBRC is also seeking to protect the integrity of its monitoring bores so that groundwater level records are not unnecessarily compromised by interference effects.

POL 27 DECISION-MAKING CRITERIA – WELL AND BORE CONSTRUCTION

3.9.16 To encourage the maximisation of well efficiency of water supply wells by managing the following features of well construction:

- depth of well
- well diameter
- screen slot size
- screen length, depth and diameter
- well efficiency.

Explanation and Reasons

3.9.17 Well construction and subsequent well maintenance affects water yield. The management of well construction will assist in the sustainable management of the groundwater resource. Through HBRC knowledge of the hydrogeology of a particular geographic area optimal well depth and construction characteristics may be imparted as either technical advice or as a condition on a consent.

6.3 Land Use Activities

For information requirements refer to section 7.3

If any land use activity (such as earthworks, fencing or landscaping) may modify, damage or destroy any known archaeological site(s) an authority from the New Zealand Historic Places Trust must be obtained for the work to proceed lawfully.

6.3.1 Bore Drilling & Bore Sealing

Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
1 **Bore drilling** *Refer POL 17, 21, 27, 75*	The drilling, construction, and alteration of bores.[22]	**Controlled**	a. The bore shall be cased and sealed to prevent aquifer cross-connection, and leakage from the ground surface into ground water.	a. Bore location, diameter, depth. b. Bore screen slot size, length, depth and diameter. c. Well head completion. d. Backflow prevention. e. Information requirements, including bore logs, hydraulic head levels and aquifer tests. f. Duration of consent. g. Lapsing of consent. h. Review of consent conditions. i. Compliance monitoring.	Applications will generally be considered without notification, without the need to obtain the written approval of affected persons.
2 **Bore drilling that does not comply with Rule 1** *Refer POL 17, 21, 27, 75*	The drilling, construction, or alteration of bores that does not comply with Rule 1.	**Restricted discretionary**		a. Bore location diameter, depth. b. Bore screen slot size, length, depth and diameter. c. Bore head completion. d. Backflow prevention. e. Information requirements, including bore logs, hydraulic head levels and aquifer tests. f. Duration of consent. g. Lapsing of consent. h. Review of consent conditions. i. Compliance monitoring.	

[22] For the purposes of this Plan, a '**bore**' is defined as any pipe, cylinder or hole inserted into the ground that either
- i. is created for the purpose of accessing underground water, oil or gas, or
- ii. penetrates a confined aquifer, or
- iii. in any way causes the release of water from a confined aquifer, or
- iv. is created for the purpose of exploring water, oil or gas resources.

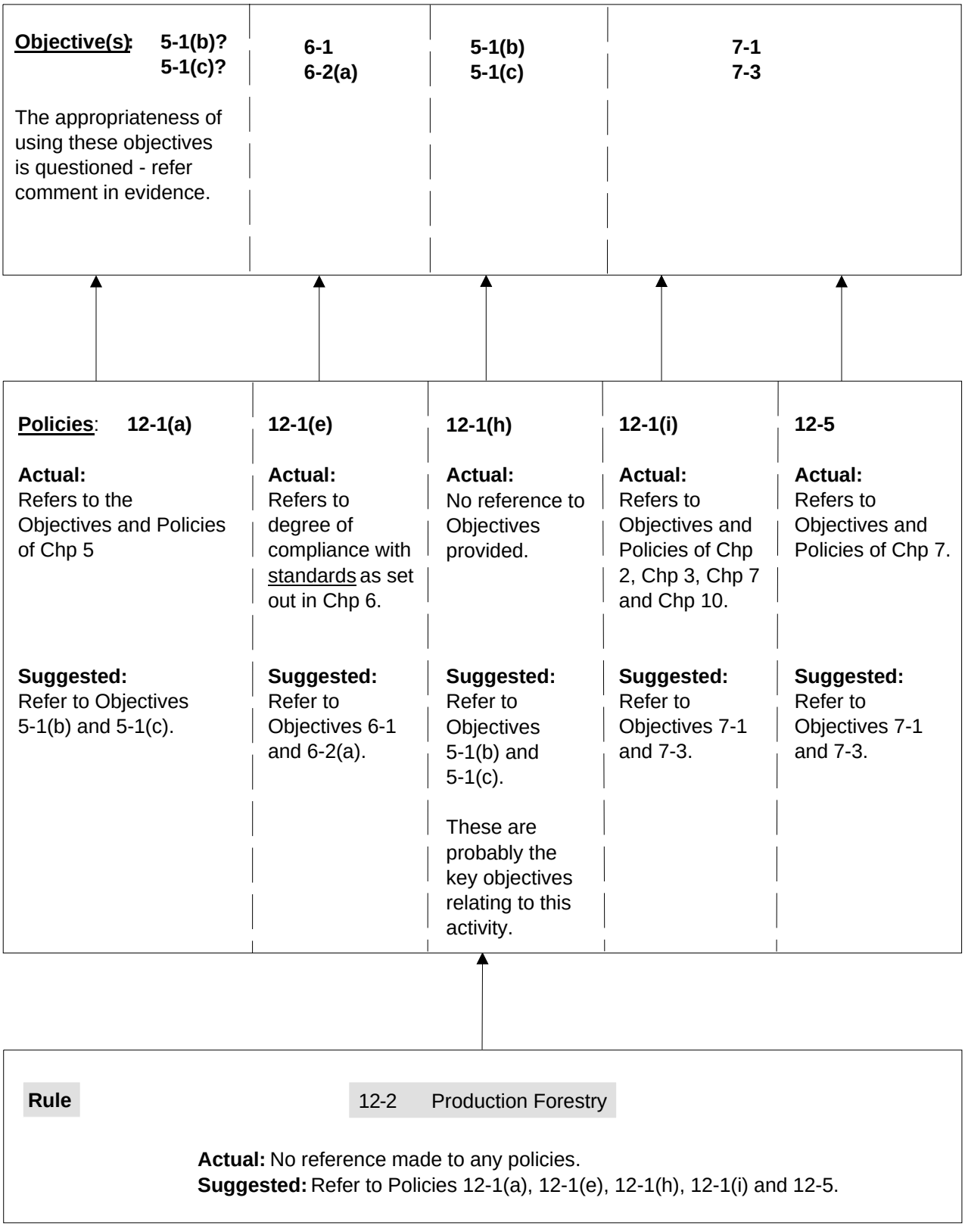
Rule	Activity	Classification	Conditions/Standards/Terms	Matters for Control/Discretion	Non-notification
3 **Unwanted or leaking bores** *Refer POL 21*	The existence of any bore that is no longer wanted or is leaking water, oil or gas.	**Non-complying**			
4 **Decommis-sioning of bores** *Refer POL 75*	The decommissioning or sealing of bores.	**Permitted**	a. Decommissioned bores shall be backfilled and sealed at the surface to prevent contamination of groundwater. b. Decommissioned holes and bores intersecting groundwater shall be sealed to prevent the vertical movement of groundwater, and to permanently confine the groundwater to the specific zone (or zones) in which it originally occurred. c. Backfill materials, where used between permanent seals, shall consist of clean sand, coarse stone, clay or drill cuttings. The material shall be non toxic. d. Decommissioning shall be undertaken by a suitably qualified person. e. The Council shall be advised of any bores that are decommissioned.		

APPENDIX D

Attempt to Link Objectives, Policies and Rules by Cross Referencing 'Production Forestry' Example

ATTEMPT TO LINK OBJECTIVES, POLICIES AND RULES BY CROSS REFERENCING

Example of a proposed Production Forest to be Planted between Woodville and the Manawatu Gorge – How and why does Rule 12-2 apply?



12.2 Rules – Vegetation Clearance and Land Disturbance

Rule	Activity	Classification	Conditions/Standards/Terms	Control/Discretion Non-Notification
12-1 **Vegetation clearance and land disturbance not covered by other rules**	Any vegetation clearance* or land disturbance* pursuant to s 9 RMA that is not specifically regulated by any other rule in this Plan. For the avoidance of doubt, this rule includes vegetation clearance* and land disturbance* that is carried out in accordance with a whole farm business plan*.	**Permitted**	(a) For any land disturbance involving a volume of fill or excavation of more than 1000 m³/y per property*, effective erosion and sediment control measures shall be installed and maintained during and following completion of works. (b) The activity shall not disturb any archaeological site, waahi tapu or koiwi remains as identified in any district plan, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places Trust except where Historic Places Trust approval has been obtained. (c) In the event of an archaeological site, waahi tapu or koiwi remains being discovered or disturbed while undertaking the activity, the activity shall cease and the Regional Council shall be notified as soon as practicable. The activity shall not be recommenced without the approval of the Regional Council.	
12-2 **Production forestry**	Vegetation clearance* or land disturbance* pursuant to s 9 RMA for the purposes of harvesting production forestry or developing land for production forestry planting, in the following circumstances: (a) in the case of land adjoining rivers, lakes and natural wetlands: (i) for areas where the land slope* is between 0° and 15°, within 10 m of the bed of a river, lake or wetland (ii) for areas where the land slope* is greater than 15°, within the strip of land bordered by the bed of a river, lake or wetland, and a setback distance (being not less than 10 m) at which the slope	**Controlled**	(a) The activity shall not take place in any rare or threatened habitat* or at-risk habitat*. (b) The activity shall not take place on a coastal foredune as regulated by Rule 12-5. (c) The activity shall not disturb any archaeological site, waahi tapu or koiwi remains as identified in any district plan, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places Trust except where Historic Places Trust approval has been obtained. (d) In the event of an archaeological site, waahi tapu or koiwi remains being discovered or	Control is reserved over: (a) the nature, scale, timing and duration of vegetation clearance or land disturbance (b) compliance with best management practices, including forestry industry standards (c) measures to maintain slope stability (d) the method of sediment retention and control of sediment run-off, (e) effects on riparian margins and water bodies

Rule	Activity	Classification	Conditions/Standards/Terms	Control/Discretion Non-Notification
	reduces to 15° or 100 m, whichever is the lesser (b) in the case of hillcountry highly erodible land*, the affected area is more than 1 ha/y per property*. (c) in the case of coastal highly erodible land*, the affected area is more than 100 m²/y per property*. This rule does not apply to production forestry activities that are: (d) accredited by the Forestry Stewardship Council programme (these are a permitted activity under Rule 12-1) (e) on land mapped as hillcountry highly erodible land* in Schedule A, but where all land that is the subject of the activity has an existing slope of less than 20° (these are a permitted activity under Rule 12-1) (f) for the purposes of controlling pests pursuant to a pest management strategy prepared under the Biosecurity Act 1993 (these are a permitted activity under Rule 12-1).		disturbed while undertaking the activity, the activity shall cease and the Regional Council shall be notified as soon as practicable. The activity shall not be recommenced without the approval of the Regional Council.	(f) effects on rare and threatened habitats*, and at-risk habitats* (g) effects on existing structures (h) qualifications required of contractors (i) revegetation requirements (j) procedures in the event of discovering or disturbing an archaeological site, waahi tapu or koiwi remains (k) duration of consent (l) review of consent conditions (m) compliance monitoring. Resource consent applications under this rule will not be notified and written approval of affected persons will not be required (notice of applications need not be served on affected persons).
12-3 **Land disturbance**	Land disturbance* on highly erodible land* pursuant to s 9 RMA in circumstances where either the affected area is more than 100 m²/y per property* or the volume of fill or excavation is more than 100 m³/y per property*. This rule does not apply to land disturbance* that is: (a) carried out in accordance with a whole farm business plan* (this is a permitted activity under Rule 12-1) (b) on land mapped as highly erodible land* in Schedule A, but where all land that is the subject of the activity has an existing slope of less than 20° (this is a permitted activity under Rule 12-1), (c) for the purposes of controlling pests pursuant to a pest management strategy prepared under the Biosecurity Act 1993 (this is a permitted activity under Rule 12-1) (d) for the purposes of recontouring or planting dunes to	**Controlled**	(a) The activity shall not take place in any rare or threatened habitat* or any at-risk habitat*. (b) The activity shall not take place on a coastal foredune or near a water body as regulated by Rule 12-5. (c) The activity shall not disturb any archaeological site, waahi tapu or koiwi remains as identified in any district plan, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places Trust except where Historic Places Trust approval has been obtained.	Control is reserved over: (a) the nature, scale, timing and duration of land disturbance (b) compliance with best management practices (c) measures to maintain slope stability (d) the method of sediment retention and control of sediment run-off (e) effects on riparian margins and water bodies (f) effects on rare and threatened habitats*, and at-risk habitats* (g) effects on existing structures (h) qualifications required of contractors

12 Land-Use Activities and Land-Based Biodiversity

12.1 Policies

Policy 12-1: Consent decision-making for vegetation clearance and land disturbance

When making decisions on resource consent applications, and setting consent conditions, for vegetation clearance* and land disturbance* the Regional Council will have particular regard to:

(a) the objectives and policies of Chapter 5

(b) whether a whole farm business plan* should be required as a condition of consent

(c) any industry standards that are relevant to the activity in accordance with Policy 12-2

(d) whether the vegetation clearance* or land disturbance* is for an important or essential activity as described under Policy 12-3

(e) the degree of compliance with the standards for managing surface water turbidity as set out in Chapter 6, to the extent that this is necessary and can reasonably be determined

(f) effects on sensitive areas including, but not limited to:

(i) dwelling houses and other buildings and structures
(ii) waahi tapu, marae and other places of significance to tangata whenua

(g) the appropriateness of adopting the best practicable option to prevent or minimise adverse effects in circumstances where:

(i) numerical guidelines or standards establishing a level of protection for a receiving environment are not available or cannot easily be established, or
(ii) the likely adverse effects are minor, and the costs associated with adopting the best practicable option are small in comparison to the costs of investigating the likely effects on land and water

(h) measures including, but not limited to, sediment and erosion control measures required to reasonably minimise adverse effects caused by rainfall and storm events

(i) the objectives and policies of Chapter 2 regarding codes of practice and other good practice initiatives, Chapter 3 regarding infrastructure and energy, Chapter 7 regarding indigenous biological diversity, landscapes and natural character, and Chapter 10 regarding natural hazards to the extent that they are relevant to the activity.

Policy 12-5: Consent decision-making regarding rare and threatened habitats, and at-risk habitats

The Regional Council will make decisions on resource consent applications involving rare and threatened habitats*, and at-risk habitats* in accordance with the objectives and policies in Chapter 7.

5.3 Objectives

Objective 5-1: Accelerated erosion

Land is used in a manner that ensures:

(a) 50% of farms with Highly Erodible Land* (see Schedule A) are either being sustainably managed, or have a whole farm business plan* in place by 2017

(b) sediment loads entering waterways as a result of accelerated erosion are reduced to the extent required to be consistent with the water management objectives and policies set out in Chapter 6 of this Plan and the targets established in Schedule D for those water management zones with elevated sediment levels

(c) accelerated erosion caused by vegetation clearance* and land disturbance* is minimised

(d) the damage to roads and other infrastructure* caused by landslides and sediment run-off from hill country is minimised

(e) the damage to property, infrastructure* and significant habitat areas caused by accelerated wind erosion of coastal sand is minimised.

Whāinga 5-1: Te tere whakahoro whenua

Ka whakamahia te whenua kia hua ai:

(a) hei mua mai i te tau 2017 e 50% o ngā pāmu whenua horo nui (tirohia Schedule A) ka āta whakahaeretia i runga i te tikanga tauwhiro rānei, e whai ana rānei i tētahi mahere pāmu katoa

(b) ka whakaitingia ngā kuhunga paru, nā te tere whakahoro whenua, ki roto i ngā rerenga wai kia hāngai tonu ki ngā whāinga whakahaere wai, pūrongo hoki kei roto i Chapter 6 – Water o tēnei mahere me ngā keonga i whakatauria i roto o Schedule D e pā ana ki aua rohe whakahaere wai nui kē ngā taunga paru

(c) ka whakaitingia te tere whakahoro whenua nā te whakapara tipu me te rāweke whenua

(d) ka whakaitingia te pakaru o ngā huarahi me kaupapa o raro kē nā te horowhenua me te rerenga parataiao i ngā puke, ā

(e) ka whakaitingia te pakaru o ngā rawa, ngā kaupapa o raro, me ngā wāhi noho whakahirahira nā te tere whakahoro ā-hau o ngā oneone takutai moana.

5.4 Policies

5.4.1 Accelerated Erosion

Policy 5-1: Sustainable management of Highly Erodible Land – whole farm business plans

The Regional Council will encourage the adoption of sustainable land management practices on all farms identified as Highly Erodible Land* (as shown in Schedule A) by working with relevant landowners/occupiers to prepare a whole

6.3 Objectives

Objective 6-1: Water management values

Surface waterbodies are managed in a manner which sustains their life-supporting capacity and recognises and provides for the values set out in Schedule D.

Whāinga 6-1: He ūara whakahaere wai

Ka āta whakahaeretia ngā mata wai i runga i te tikanga tauwhiro hei tiaki oranga, ā, ka whakamanatia, ka taunakitia hoki ngā Ūara kei roto i Schedule D.

Objective 6-2: Water quality

(a) Surface water quality is managed to ensure that:

- (i) water quality is maintained in those rivers where the existing water quality is sufficient to support the values of the river
- (ii) water quality is enhanced in those rivers where the existing water quality is not sufficient to support the values of the river
- (iii) accelerated eutrophication or sedimentation of lakes in the Region is prevented or minimised
- (iv) the special values of rivers protected by water conservation orders and local water conservation notices are maintained.

(b) Groundwater quality is managed to ensure that the existing groundwater quality is maintained.

Whāinga 6-2: Te kounga o te wai

(a) Ka whakahaeretia te kounga o te mata wai kia hua ai:

- *(i) ka tiakina te kounga o te wai kei roto i ngā awa he kaha tonu te kounga o te wai hei hāpai i ngā ūara o te awa*
- *(ii) ka whakapaingia te kounga o te wai kei roto i ngā awa kāore i te kaha te kounga o te wai hei hāpai i ngā ūara o te awa*
- *(iii) ka āraia, ka whakaitingia rānei te tere parahanga ā-matū whakamōmona rānei, parataiaotanga rānei o ngā roto o te Rohe, ā*
- *(iv) ka whakamarumarutia ngā ūara motuhake o ngā awa e ngā water conservation orders, ā, ka tiakina ngā local water conservation notices.*

(b) Ka whakahaeretia te kounga o te waiopapa kia hua ai ka tiakina te kounga o te waiopapa.

Objective 6-3: Water quantity and allocation

Water is managed to enable people, industry and agriculture to take and use water to meet their reasonable needs while ensuring that:

(a) For surface water:

- (i) minimum flows and allocation regimes are set for the purpose of maintaining the existing life-supporting capacity of rivers and providing for other values of rivers as necessary

7.4.1 Indigenous Biological Diversity

Policy 7-1: Responsibilities for maintaining indigenous biological diversity

In accordance with s 62(1)(i) RMA, local authority responsibilities for controlling land use activities for the purpose of maintaining indigenous biological diversity in the Manawatu-Wanganui Region are apportioned as follows:

(a) **The Regional Council shall be responsible for:**

(i) developing objectives, policies and methods for the purpose of establishing a region-wide approach for maintaining indigenous biological diversity

(ii) developing rules controlling land use activities for the purpose of maintaining biological diversity.

(b) **Territorial Authorities shall be responsible for:**

(i) implementing the objectives and policies of this chapter when developing rules and making decisions on subdivision and land-use consent applications

(ii) retaining schedules of notable trees and amenity trees in their district plans and/or such other measures as they see fit for the purpose of recognising amenity and cultural values associated with indigenous biological diversity.

Policy 7-2: Activities in Rare and Threatened Habitats

(a) Rare and threatened habitats* are identified in accordance with Schedule E.

(b) Rare and threatened habitats* shall be protected by generally not allowing any of the following activities unless the provisions of subsection (c) or (d) apply:

(i) vegetation clearance* or land disturbance* within these areas

(ii) discharges of contaminants to land or water, or drainage or diversion of water, within or near these areas.

(c) The activities described in subsection (b) will be allowed where they are for the purpose of pest control or habitat enhancement.

(d) The activities described in subsection (b) may be allowed for other purposes where there are no more than minor adverse effects on the representativeness, rarity and distinctiveness or ecological context of the rare and threatened habitat*, as assessed in accordance with Schedule E.

Policy 7-3: Activities in at-risk habitats

(a) At-risk habitats* are identified in accordance with Schedule E.

(b) At-risk habitats* shall be maintained by regulating the following activities, and by making consent decisions in accordance with subsections (c) and (d):

(i) vegetation clearance* and land disturbance* within these areas
(ii) discharges of contaminants to land or water, and drainage and diversion of water, within or near these areas.

(c) The activities described in subsection (b) will be allowed where they are for the purpose of pest control or habitat enhancement

(d) Where the activities described in subsection (b) are carried out for other purposes, consent decisions will be made on a case by case basis, having regard to an assessment of the ecological significance of the site based upon the site's representativeness, rarity and distinctiveness, and ecological context as assessed in accordance with Schedule E. Consents will generally be granted in circumstances where:

(i) there will be no significant adverse effects on the factors which contribute to the significance of the area as assessed in accordance with Schedule E, or
(ii) any significant adverse effects can be adequately avoided, remedied or mitigated, or
(iii) financial contributions can be used to adequately compensate for or offset significant adverse effects.

Policy 7-4: Proactive management of representative habitats

(a) The Regional Council will aim to improve the health and function of the best representative examples of rare and threatened habitats* and at-risk habitats* by working in partnership with relevant landowners to establish a plan for the proactive management of each of these areas by 2016.

(b) For the purposes of subsection (a), separate programmes will be established for wetlands, bush remnants, native fish communities and coastal ecosystems.

(c) The management plans under subsection (a) will generally address the following matters as a minimum:

(i) fencing and prevention of stock access
(ii) pest control
(iii) planting
(iv) agreed land uses
(v) work and materials to be provided by the Regional Council or a third party
(vi) financial assistance to be provided by the Regional Council or a third party
(vii) monitoring
(viii) legal options for ensuring longevity of the measures implemented.

Policy 7-5: Fostering an ethic of stewardship

The Regional Council will aim to equip landowners and others with the information they need to act as good stewards for biodiversity, and to act responsibly and proactively. These initiatives will be additional to the council-led programmes under Policy 7-4.