

## 10.1 WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67 - CONFIDENTIAL

Decision Required

**Report To:** Environment and Planning Committee  
**Meeting Date:** 3 May 2018  
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**Report Number:** REP18-05-03

This report is confidential in accordance with the Local Government Official Information and Meetings Act 1987 (48(i)(d)) - To deliberate in private in a procedure where a right of appeal lies to a Court against the final decision.

### 1 Summary

- 1.1 This report recommends a draft change to the Tasman Resource Management Plan to address a number of largely technical amendments to update, clarify effect, and correct errors with the Waimea water management provisions for managing the transitional decisions concerning the Waimea Community Dam. The change is needed to be notified in good time to allow renewals of water permits to be completed before the first date is triggered concerning this transition.

### 2 Draft Resolution

**That the Environment and Planning Committee**

- 1. receives the Waimea Water Management Technical Amendments: Draft Change 67 REP18-05-03 report; and**
- 2. adopts the following recommendations as instructions for the draft Change 67 as provided in REP18-05-03 :**
  - i. Issue 1 options 3 and 4: amend Policy 30.2.3.13 (b) to extend scope of lands able to be serviced for community water supplies under adverse Dam outcomes, to include rural land connected to a community water supply as at the date of the proposed plan change notification; and clarify assessment matters to give effect to the policy in relation to community water supply consents**
  - ii. Issue 2 options 1 and 2: update Fig 31.1D and the Soils Area Special Map 236 to reflect new soils information and applicable rates of application; and remove crop type as restriction for affiliated permit use after Dam commences**
  - iii. Issue 3 option 1: make technical amendments to the extent of the Redwood and Golden Hills zones under the Dam scenarios, and to the allocation limits factually applicable**

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- iv. **Issue 4 option 1: make technical amendments to displays of the rationing steps and trigger flows for the Waimea Plains zones under the three scenarios in the tables of Schedule 31.C to clarify their intended effect**
  - v. **Issue 5 option 1: no change to rationing regime for affiliated permits before the Dam commences**
  - vi. **Issue 6 option 1: amend the dam transition timestamps (as amended by C63), by extending forward by six months all timestamps; and**
  - vii. **Include the amendments under issue 6 in the draft change for iwi consultation, but delegate to the Chair and Deputy and the Mayor power to direct its retention or removal should circumstances with achieving the financial close for the Waimea Community Dam make the amendments either necessary or unnecessary; and**
3. **adopts the reasons for each recommended option as the summary of the evaluation of the appropriateness of the proposed provisions under section 32 of the Resource Management Act and**
4. **approves the amendments to Chapters 30 and 31 of the Tasman Resource Management Plan contained in Attachments 1 and 2 as draft Change 67 for provision to iwi authorities under Cls 3 and 4A Schedule 1 of the Resource Management Act.**

**WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67****3 Purpose of the Report**

- 3.1 This report recommends approval of a draft change (C67) to the Tasman Resource Management Plan (TRMP) to deal with omissions, errors or problems with provisions requiring correction, updating, or alteration in the TRMP Part 5 dealing with the transitional management of water allocation in the Waimea Plains water management zones under the three scenarios of no Waimea Community Dam (WCD), WCD and affiliated permits, and WCD and unaffiliated permits.

**4 Background and Discussion**

- 4.1 The water management regime for the Waimea Plains water management zones has been developed over three sets of changes to the TRMP since 2013 following the commencement of planning work to provide for water management decision-making whether there was to be a Waimea Community Dam or not. These three sets are: Changes 45 – 48 (notified 27 April 2013; operative 19 September 2015) Changes 54 – 56 (notified 19 September 2015; operative 24 September 2016) and Change 63 (notified 24 September 2016; operative 7 April 2018).
- 4.2 These three sets of amendments:
- Established freshwater objectives for quantity and environmental flow and allocation limits and targets for the zones under three scenarios concerning the WCD (no WCD; with WCD affiliated permits; and with WCD unaffiliated permits (including affiliated until WCD commences)).
  - Linked affiliated permits to the funding of the construction and operation of the WCD via water supply agreements.
  - Established a decision-making transition over a time period into the future concerning the advent of these scenarios, through the decision about the WCD, and checks with its progress with construction and its commencement of operation. Under this transition the zone objectives, limits or targets, and restrictions for taking and use of Waimea Plains water, change either for all water permits, affiliated permits or unaffiliated permits.
  - Provided and amended datestamps to govern this time transition.
- 4.3 During the course of implementing the sets of changes to the TRMP to provide for the three scenarios during the transitional period for the Waimea Plains zones, several problems with the provisions have become known through consent renewal assessments and discussions with water users. There is some urgency in developing and adopting appropriate amendments, in time for completion of Waimea water permit renewals well before 1 November 2018, the trigger date for WCD or no WCD scenarios.
- 4.4 There are six sets of provisions with various issues:
- Policy 30.2.3.13 (restrictions on community water supply exercise with no Waimea Community Dam (WCD) or no progress with construction) and a gap between intent and effect and a legal issue, need resolving.
  - Rules 31.1.2.2(d) and Figure 31.1D, 31.1.2.3(f) and 31.1.2.3A(b) (rates of application for controlled and restricted discretionary take and irrigation use in Waimea water

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management area) and the soil types grouped as shown on Part 5 Special Map 236, not accounting for recent soils information.

- Incorrect values for allocation limits and targets for zones under the three scenarios concerning the WCD (Rules 31.1.2.3(b) and Figure 31.1EA, and 31.1.2.5(a) and Figure 31.1FA), and related incorrect referencing and extent of Golden Hills Zone in provisions under the three scenarios (Sch 31C, Part 5 Special Map 232 showing area of land currently within Golden Hills Zone not influencing drawdown of the Plains aquifers and so should not to be included within allocation limits or targets for the scenarios with WCD).
- Unclear displays and incomplete references to rationing triggers and minimum flows for zones under the three WCD scenarios (Figure 31.1C and Schedule 31C).
- Appropriate level of rationing restrictions for affiliated permits following permit renewal from 1 November 2018 until the WCD commences operation (Fig 31.1C, Schedule 31C).
- Current risks with achieving decisions within triggers in timeframe for WCD transition, arising from securing land, financial close, and construction commencement (policies and rules amended by C63).

4.5 It is recommended to address these issues through a change to the TRMP water management provisions for the Waimea Plains zones. Three of the issues are technical (issues 2, 3 and 4). The purposes of the TRMP change to be recommended are:

1. to correct technical errors and update provisions where more current information allows this; and
2. to clarify the effect of unclear provisions, and mitigate decision risks concerning granting of renewal permits and Council's community water supply permit exercise.

Attachments 1 and 2 are Chapters 30 and 31 of the TRMP showing in edit format the proposed amendments to give effect to the recommended options to address the following issues.

4.6 **Issue 1 Restrictions on community water supply end-use under adverse Dam outcomes**

In the event of either no WCD or a delay in its construction, Policy 30.2.3.13 intends from 1 November 2019 restricting urban water demand. It limits the Council's ability to provide water to land zoned as urban, including land that has a deferred urban zoning status as at the datestamp of 27 April 2013. The objective of this policy is to mitigate significantly increasing water shortfall risk to future urban communities, under adverse WCD outcomes, by preventing growth in urban demand beyond those lands previously zoned for development. Under this circumstance, the Policy also goes on to limit new industrial connections, regulate by a water supply bylaw, and commit Council to investigating community water supply (CWS) augmentation options.

The Policy applies in respect of land either zoned urban or urban deferred as at 27 April 2013. However it overlooks the fact that Council's CWS also services rural land that is urban metered and rural land which is on a low-flow restrictor. So there is now some ambiguity about the scope of intent regarding "serviced". As well, there is uncertainty over the meaning in the policy of: "zoned for urban development... including any urban deferred zones". The policy does not define this expression, and elsewhere in the TRMP only "urban area" and "rural area" are defined in terms of zones. If these TRMP meanings are applied, some areas of residential and other urban land with an urban metered level of service as at 2013, but not zoned urban or urban deferred, would not be protected by the policy as it stands. And

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because of the limitation of “service only land that was zoned for urban development”, all rural lands would not be protected by the policy.

In addition, while the policy is intended to be implemented through the setting of conditions on the renewals of council’s CWS permits, under Matter (1) in Rules 31.1.2.2, 31.1.2.3 and 31.1.2.5 concerning community water supplies taking and use, there is no explicit scope in this matter to implement the policy, and there is no such matter for Rule 31.1.2.3A.

A more fundamental implementation issue with Policy 30.2.3.13 cl (b) in its current or other form, is the questionable scope of legal power Council has as a water supply authority to comply with a condition of a resource consent for CWS use, to cease servicing any set of properties previously connected to a CWS reticulation. Section 130 Local Government Act 2002 (LGA) obliges local authorities to continue the provision of water supply services and section 193 LGA and section 69S of the Health Act 1956 (HA) each further entrench this duty to continue supplying water to properties connected to a supply network, except in the circumstances of emergencies, maintenance or repair, or where the property-owner causes some functional issue with the network connection.

The view is taken that the RMA power must work in with the LGA and HA duties but the RMA power does restrict the permit holder to not providing new connections where such a restriction is validly imposed on the relevant consent. But where CWS connections exist, the RMA power cannot operate to discontinue those connections, even where there may be a resource management reason. However as a permit holder the Council still has to work within the allocations it has under the CWS permit.

The legal framework suggests that the principle – once connected always connected – must govern any amendment to the policy. All CWS connections whether urban or rural service levels, that are factually in existence from the time any policy amendment takes effect or from some later time provided for in that amendment, are to be continued to be serviced, under adverse WCD outcomes.

Given the above issues, a decision is needed on the appropriate scope of policy restriction for community water supply use under the situations to which the policy applies

- 4.7 If Policy 30.2.3.13 cl (b) is triggered in its current form, it is assessed as having the following intended and unintended effects. Clause (b) requires permits exercised to service CWS networks sourced from the Waimea Plains zones, to be limited to lands zoned for urban development including urban deferred lands as at 27 April 2013, if there are adverse WCD outcomes at the trigger date of 1 November 2019. The potential unintended effects of the policy as it stands, are the risk of cessation of service from 1 November 2019 to all land that was not zoned urban or urban deferred as at 27 April 2013. In other words, the Council would cease providing water through its CWS to:

- rural zoned lands serviced as at the historical datestamp of 27 April 2013 at both the rural restricted and the urban metered levels of service for CWS;
- rural land that has been connected to a CWS since 27 April 2013, including land in Richmond that has been consented for subdivision but sits on rural zoned land;
- the Redwood Valley Scheme.

In order to identify the extent of the intended and unintended effects of the policy, a spatial display was developed of the intersection of TRMP Part 2 land zones in effect as at 27 April

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2013, as classified urban or rural by TRMP zoning (relying on the meaning of urban area and rural area), with the property connections to both urban metered and rural restricted service levels. The display is of the networks supplying Richmond, Brightwater and Mapua-Ruby Bay together with the nearby rural extensions, as at the 2013 date, and the growth in service connections since then as at March 2018.

The map at Attachment 3 shows the effects of the policy if triggered of:

- lands zoned urban and urban deferred as at 27 April 2013 (protected)
- lands zoned rural as at 27 April 2013 but supplied with water from a CWS at that date (cease connection)
- lands zoned rural that have been connected to a CWS since 27 April 2013 (cease connection).

The data categories are:

*Urban zone* is any Residential, Commercial, Central Business, Mixed Business, Industrial, or Papakainga Zone, or any land zoned Tourist Services, Open Space, or Recreation Zone adjoining any of the above zones

*Urban deferred* is any zone whether urban or rural with a particular type of urban zone overlying it but deferred

*Rural zone* is any Rural 1, Rural 2, Rural 3, Rural Residential, Rural Industrial, or Conservation Zone

*Urban connection* is a high pressure metered connection (regardless of the zoning)

*Rural connection* is a flow restricted unmetered connection (regardless of the zoning).

The table displayed with the map shows the numbers of connections under each of the CWS service levels, as at the 2013 datestamp, and thereafter, within the urban and rural zonings.

The table shows that 7,344 connections would be protected by the policy and 1,628 connections that would be required to be ceased as being outside the scope of protection afforded by the current policy.

The legal issue means that if the policy was triggered, the key effect is likely to be inaction by council as water supply authority to restrict servicing any connection because of its legal duties to continue connections, and any enforcement action considered by council as water manager might result in a difficult internal council conflict.

The range of effects of the policy if it is triggered, whether intended or not, and the risk of conflicted legal action, all suggest that a refreshing of the policy objective and its scope of effect is desirable. This is addressed under the recommended option assessed for Issue 1.

#### 4.8 **Issue 2 Rates of irrigation application under new soils information and need for crop-based restriction after WCD commences**

The water take and use rules regulate the rate at which water can be applied to irrigated land certain water management zones to achieve water use efficiency. Since the advent in 2013 of the current version of Fig 31.1D and the Soils Area Special Map 236 to include the Waimea Plains soil types, an upgraded soils investigation for the Waimea Plains and other water



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management areas, provides a more accurate spatial pattern of classes of application rate as informed by soil types and their relevant physical characteristics.

Work has been done to establish the appropriate technical basis for displaying in the figure and map, the updated soil types and their extents and application rate values that reflect this upgraded information for the Waimea Plains zones. A revised Map 236 and table in Figure 31.1D are recommended.

A related technical issue is that under the scenario of with WCD and for affiliated permits, following the commencement of the WCD, the use rate remains limited by both soil type and crop type. Under this scenario and at this point in the transition to full augmentation by WCD, there is no clear reason for crop type to continue to limit the application rate. Efficiency of use should enable shifts in crop type, within the soil type rate limit. This principle is also enabled by permitted site transfers for affiliated permits after WCD commences operation.

**4.9 Issue 3 Incorrect display of lands in Golden Hills Zone in relation to allocation restrictions under WCD scenarios**

The current extent of the Golden Hills zone and its inclusion in the restrictions under the three WCD scenarios is on the basis that takes from it contribute to drawdown of groundwater in other parts of the zone and so affect the recession of the Waimea River in droughts. However there is an area of irrigable land currently within the western margin of this zone that is incorrectly included as this area has no significant hydraulic influence on Plains aquifers and river drawdown. This part of this zone is more correctly included within the Redwood zone and the values for allocation limits and targets for both Golden Hills and Redwood under each of the three scenarios need recalculation following the outcome of the bona fide review for Redwood zone and Golden Hills zone, and consequential amendments to the identification of the zones and rationing status under the scenarios. As well, the planning maps showing the pattern of water management zones under each of the three scenarios need to be amended for correctness and clarity of identification.

**4.10 Issue 4 Incorrect display of rationing steps and triggers for Waimea Plains zones under three scenarios**

In the displays of the rationing steps and trigger flows for the Waimea Plains zones under the three scenarios in the tables of Schedule 31.C, there is an unclear and potentially incorrect indication of the way the triggers apply within sets of zones for these scenarios.

**4.11 Issue 5 Water insecurity to affiliated permits over the WCD transition**

The rationing restrictions and flow triggers for the steps for affiliated permits during the transition for the with WCD scenario, from prior to 1 November 2018 to until the WCD commences operation (nominally 1 November 2022) provide a continuing level of water insecurity through the risk of rationing on the allocations of renewed permits. Assuming grants of renewed affiliated permits by that first date, affiliated permit exercise during this transition of nominally four years will be subject to:

- consultation trigger 2800l/s at Irvines Wairoa
- first rationing step (20% reduction on allocated amount) trigger 2500l/s at Irvines Wairoa (or saltwater trigger in WWD 50)

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- next rationing trigger and step and all subsequent triggers and steps at discretion of Dry Weather Task Force (DWTF) under a water shortage direction, as guided by Policy 30.1.3.20, including to any cease take
- no minimum flow specified but the policy guidance for the DWTF requires avoidance of saltwater intrusion and maintenance of instream values as given in Schedule 30A for this transition.

The allocated amount is the 2013 bona fide use, and this amount may be less than the amount on the currently expired permits still being exercised at present pending renewal decisions. From the results of the bona fide reviews of all permits there is a 78% likelihood of some varying amount of reduction in permit allocations from the previous allocations.

For comparison, the non-affiliated rationing regime over this same transition operates under 4 step rationing at triggers commencing earlier (2750 l/s) leading to 70% reduction of allocated amount triggered at 800 l/s flow at the downstream end of the river with DWTF decisions on further reductions under Policy 30.1.3.20 leading to cease take below that flow.

The issue is whether this operative rationing regime remains appropriate for anticipated affiliated permits. The currently expired permits are operating on a variety of rationing requirements, with a variety of triggers and step-wise reductions. They are arbitrary in relation to the present regime intended for affiliated permits where maintenance of instream values and saltwater intrusion risk, guide reductions imposed by the DWTF. As well, the reductions in allocations are variable given the variety of historical use patterns, including some holders who have increased usage after the ten year period for bona fide use.

There is now adequate shareholder commitment for Waimea Irrigation Limited to contribute its share to the funding model for WCD. The view has been expressed to Council that it would be unfair for affiliated permit holders to have to temporarily reduce their use to bona fide levels subject to rationing under the current rules only to then increase use in proportion to shares purchased when the dam commences operation. At stake in this concern is the drought risk for these permit-holders over nominally four years from end 2018 until the WCD is in operation.

However, the entire allocation management framework for the Waimea resources governing decisions on allocations in renewals and rationing over this transitional period under the WCD in progress, is based on moderating the two risks:

- the risk of low flows for the ecological and physical integrity of the Waimea Plains surface and groundwater resource, including flows for ecosystem maintenance and prevention of saltwater intrusion, resulting from water demand, and
- the risk for irrigation and urban water shortfalls because of drought and the need to ration under lowering flows arising from the first risk.

The allocation restrictions to apply to affiliated permits actively seek to mitigate both risks until there is an augmentation solution in the form of the WCD in place.

Any less stringent or more secure use for affiliated irrigation and other consumptive uses will impact on the Waimea water resources and the values specified in Schedule 30A. These have been established through two sets of now operative Plan changes.



**WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67****4.12 Issue 6 Risks with timeframe for WCD transition in securing land and construction commencement**

Change 63 now operative, extended by two years the original timeframes for governing the transition concerning the WCD under the three scenarios. The permit renewals currently are on hold pending decisions on whether the with WCD or without WCD pathway is adopted. This in turn is influenced by securing the balance of the land in the WCD footprint, financial close, provision of water supply agreements (WSAs) by shareholders, and the ability to commence construction of WCD. There is a prospect of delay in relation to some of these decisions or outcomes. The key first date is 1 November 2018, by which the permits to be renewed need certainty on the WSAs from affiliated permit applicants. As well, delay with land securement and ensuing decisions may implicate the next date of a year later, when “substantial progress” with WCD construction is needed to forestall restrictions on CWS permit exercise by Council as holder.

Both a timely and a green light for financial close for the WCD is the precursor to the WSA provision by those who intend to be affiliated permit-holders, and this provision must be achieved by at least September to allow grants of permits before 1 November.

A decision risk mitigation is to shift all the timestamps forward into the future once more, this time by six months beginning from the first timestamp of 1 November 2018. This timestamp would move to 1 May 2019, to coincide with the end of the next irrigation season as it would be efficient to avoid changing the status of affiliated permits mid-season. This would allow a limited time window to resolve the conservation land securement issue expeditiously and for the event of any other delay in reaching financial close. It would also delay a premature implementation of the without WCD option. All other timestamps would also move consequentially.

**5 Options****5.1 Options Assessment Issue 1**

The options are:

1. no change to Policy 30.2.3.13
2. extend scope of protection for rural land under the policy for service as at 2013
3. extend scope of protection for rural land under the policy for service up to the present
4. clarify power to impose restrictions on CWS consents

Option 1: no action on Policy 30.2.3.13 (status quo)

This option has a high risk of failure through potential adverse physical effects on existing CWS connections (cessation of existing service) that do not achieve the objective of the policy of halting growth in water demand for CWS in the Waimea basin in adverse WCD circumstances and would be a form of clawback. Because of the legal issues with implementation, the current policy is highly unlikely to result in such physical effects with the only result being an internal Council legal conflict.

This option is not recommended.

Option 2: extend scope of CWS use protection (service continuation) to include all levels of CWS service on rural lands as at 2013.

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This option deals with the identified effects and would be substantially effective under the objective for the policy, but may still have a risk of failure for lack of legal power, in relation to the small numbers of connections to the networks since 2013 that could not be legally severed.

This option is not recommended.

Option 3: as option 2 but extend to include all levels of CWS service on rural zoned lands connected prior to and since 2013 (to at least date of notification or to amended first datestamp recommended to be 1 May 2019).

This option expands the scope of protection of existing connections and has to include protection of connections up to the present for the legal reasons discussed. A revised policy objective is to mitigate increasing water shortfall risk to those communities reliant on the Council's CWS, under adverse WCD outcomes, by preventing growth beyond the level of existing connections, once those adverse outcomes may be triggered. This policy objective is appropriate under s 32 RMA as:

1. all connections as at 2013 of whatever service level fall into the priority end-use of CWS
2. the law limits the ability to cease supplying any current connection (as distinct from restricting use from that connection in any emergency)
3. the growth in connections since 2013 is not a significant increase in demand.

With this amended scope of effect, clause (b) of the policy can be substantially effective in achieving this refreshed policy objective, by including all connections to the notification date of the TRMP change.

This option is recommended for the reasons that the current policy scope must recognise the two levels of service for community water supplies (urban metered and rural restricted) and the principle from the law that once connected always connected applies despite any adverse WCD scenario.

Option 4: improve the implementation directions in the rules (Matter (1)) by providing expressly for the CWS permit renewals to implement the policy directions via consent conditions.

This option is recommended for the reason that the consent matters through which the policy can be implemented are inadequately clear in their scope.

Amendments to deliver these options are proposed in draft Change 67 (attachments 1 and 2).

## 5.2 Options assessment issue 2

The options are to:

1. Update the soil type groupings on Map 236 and in Figure 31.1D to reflect current information on soils and rates in the Waimea plains zones;
2. remove the restriction of crop type for affiliated permits after WCD commencement; or
3. make no amendments to these provisions.

Options 1 and 2 are recommended for the reasons that the recent soils information allows a technical review of the technical bases for application rate restrictions and provides a more accurate display of the spatial extents of the relevant soil types on the Waimea Plains; and that it is inefficient to limit water use for affiliated permits once the WCD commences by crop

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type as this should be able to change under market conditions and a secure water source for those permits. Amendments are proposed in draft Change 67 (attachment 2).

**5.3 Options assessment issue 3**

The options are:

1. make the technical amendments to the extent of the Redwood and Golden Hills zones under the scenarios, and to the allocation limits factually applicable; or
2. make no amendments to these affected provisions.

The recommended option is to make these corrections for the reason to achieve consistency with the intentions of their application in those scenarios and the factual information about the extent of drawdown influence from part of the current extent of the Golden Hills zone, and the allocation limit for each of the affected zones under the bona fide reviews for each. Amendments are proposed in draft Change 67 (attachment 2).

**5.4 Options assessment issue 4**

The options are:

1. make the technical amendments to displays of the rationing steps and trigger flows for the Waimea Plains zones under the three scenarios in the tables of Schedule 31.C; or
2. make no amendments to these affected provisions.

The recommended option is to make these corrections for the reason to achieve correctness and consistency with the intentions of their application in those scenarios as developed by Changes 54 - 56. Amendments to Schedule 31C tables 1B, 1C and 1D are proposed in draft Change 67 (attachment 2).

**5.5 Options assessment issue 5**

The options are:

1. no change to the affiliated permits allocation and rationing regime
2. suspend the bona fide review allocation (where it is the least rate under Rule 31.1.2.2(d)) for those permits that become affiliated, for the transition
3. apply the varying rationing requirements on the expired permits to each renewed permit for the transition
4. amend the rationing triggers, steps and the scope of DWTF discretion in rationing affiliated permits to specify a regime that could lead to less insecurity for affiliated permit holders

**Option 1 no change**

This option retains the structured decision-making by the DWTF during any severe drought where the varying changing circumstances are able to be accounted for in real-time. Of all the options, this option is best able to achieve the management objectives for the Waimea water resources and the policies for the transition, to reduce the degree of over-allocation and resource risks, as required under the NPSFM. It avoids the risk of significant contest by stakeholders with any proposed amendment to this regime under other options. The expectation with the operative regime already established, is of seeing the avoidance of over-allocation under a drought where the resource is exposed to damage risk, and where available

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water is rationed to enable least chance of complete cessation of access over time of the drought.

This option is recommended for the reason that it provides for a reduced level of over-allocation through the bona fide review, and a rationing regime for those who are financially contributing to a future WCD where the span of discretionary adaptive decision-making by the DWTF can balance minimising take insecurity with the water resource values at stake in a severe drought.

Option 2 apply pre-bona fide review allocations to affiliated permits to reduce rationing effect

This option would require transitional conditions on affiliated permits to retain expired permit allocations for the period to WCD commencement. This would increase rather than reduce authorized irrigation demand and would be inefficient and unfair between affiliated permits, as there is an arbitrary range of historical use patterns. It would increase the complexity of administration. There would remain a risk of over-allocated irrigation demand to push flow recessions faster than with the new allocations with any severe drought. This may limit achievement of the management objectives for the Waimea water resources and the policies for the transition to reduce the degree of over-allocation, as required under the NPSFM. There is a high risk of contest with this option given the settled allocation regime during the transition, with some legal risk of failure.

This option is not recommended.

Option 3 apply rationing of expired permits for those affiliated

This option is also inefficient and unfair between affiliated permits, as there is an arbitrary range of rationing restrictions, imposed over various times in the past and so inconsistent. It would also not achieve the policy objectives of consistently mediating between the two risks during a drought in the manner enabled currently. It would be administratively complex and inefficient with the monitoring effort required. There is a risk of contest also because of its arbitrariness.

This option is not recommended.

Option 4 extend discretion of DWTF for rationing affiliated permits

This option would reduce the considerations for the DWTF to apply or otherwise soften rationing of affiliated permits. It has similar risks to options 2 and 3 in relation to retaining over a further four years a degree of over-allocated water demand potentially through a drought, with heightened pressure on managing both abstraction insecurity and environmental risks. It has a logical difficulty of developing DWTF guidance alternative to that in Policy 30.1.3.20 and Schedule 31.C Table 1B. The key disadvantage is that in real-time decision-making there are several considerations necessary to help decide whether and what level of the next reduction is appropriate to meet the objectives for the decision-making.

This option is not recommended.

## 5.6 Options assessment Issue 6

The options are:

1. to amend the datestamps as amended by C63, by extending forward by six months all datestamps, or
2. Make no such amendments.

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For option 1, the positive effects and risks evaluated for Change 63 are applicable (attachment 3), but with more acute levels of risk to achieve the intended benefits of certainty and efficiency in the decision process. It is proposed at this stage that this option could be adopted but its inclusion in Change 67 could be held off given current negotiations. Confirmation could be sought to proceed if required when the plan change is to be notified which is expected by early July.

This option is recommended for the reason that it is efficient to complete permit renewals without having to trigger the no WCD scenario in the event that the decision-making with the WCD is delayed past the beginning of the date by which permit renewals must be granted with a WCD outcome known (1 November 2018). Any amendment to the datestamps can be included in the draft change, after the necessary consultation is completed and the change adopted for notification, but that its inclusion in the notified change after this point be delegated to a number of Councillors (Chair, Deputy Chair and Mayor) should the circumstances indicate its need or lack of need.

For option 2, the risk of no action is that the 1 November 2018 date adverse outcome of no WCD will be triggered, with permit renewals subject to universally stringent rationing requirements for as long as it might be until any alternative decision on the WCD is able to be made. A knock-on risk is triggering the next datestamp even if a positive WCD decision might be made following 1 November 2018.

This option is not recommended.

**6 Strategy and Risks**

- 6.1 This change resolves some allocation issues in the TRMP for the Waimea Plains zones so as to reduce the risks from unclear, incorrect and dated provisions in making decisions to grant renewed water permits for all these zones by 1 November 2018 or a delayed date in the change. There are process risks as there is a degree of timeliness in the notification of this change well before the TRMP triggers a no WCD scenario.

As part of this risk, the issue of consultation arises with the inclusion of amendments to implement the recommended option for the issue of delayed WCD decision-making (issue 6). While Council must consult with iwi authorities, it has a discretion to judge the degree of effect on other parties before deciding to consult with them. Contrary to popular understanding, there is no blanket duty to consult with the public on a change. If the WCD transition datestamps are further extended by six months, the negligible response from the community on Change 63, which previously extended these by two years, might be now different. Parties which could be said to be affected by timeframe extension in the draft change once notified, include iwi themselves, statutory agencies such as the Fish & Game Council and Department of Conservation, as well as the wider community interested in the health of the river over the next several irrigation seasons.

If Council agrees to consult with only iwi authorities in the interests of timeliness with the change, then there is a low risk of legal challenge by other parties after notification.

**7 Policy / Legal Requirements / Plan**

**WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67**

- 7.1 This recommended change to TRMP has to be provided to iwi authorities for their comment and regard had to this before the change is adopted for notification. In addition, particular regard to the evaluation of the recommended options in this report has to be given when Council is deciding to proceed with the change.
- 7.2 The change can be brought back to the Committee in June following any response from iwi authorities.

**8 Consideration of Financial or Budgetary Implications**

- 8.1 There are no budgetary or financial implications from the draft change if notified.

**9 Significance and Engagement**

- 9.1 The decision to proceed with draft Change 67 for the purpose of discussion is procedural. The content of the draft plan change will be of interest to people generally but its largely technical nature is considered to be of low significance. The RMA Schedule 1 requirements will ensure those wishing to will be able to make submissions.



**WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67**

Issue	Level of Significance	Explanation of Assessment
Is there a high level of public interest, or is decision likely to be controversial?	low	
Is there a significant impact arising from duration of the effects from the decision?	Low to moderate	The Change may avoid having to amend the status of renewed permits following a change in WCD scenario then this is a potentially significant financial saving
Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	No	
Does the decision create a substantial change in the level of service provided by Council?	No	
Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	No	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
Does the proposal or decision involve Council exiting from or entering into a group of activities?	No	

**10 Conclusion**

- 10.1 The recommended change 67 to the TRMP is to resolve largely technical uncertainties, inaccuracies and updating of the Waimea Plains water management regime in relation to the WCD scenarios, to ensure achievement of the relevant freshwater objectives under any of these scenarios.
- 10.2 There are policy implications where either no change is recommended or where the timeframe for the completion of the transition concerning the WCD is recommended to be further extended for a period sufficient to avoid having to revisit consent decisions once made.

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**WAIMEA WATER MANAGEMENT TECHNICAL AMENDMENTS: DRAFT CHANGE 67****11 Next Steps / Timeline**

- 11.1 The draft, once approved for consultation, will be provided to iwi authorities for their responses. An adoption might be able to be considered in June and the notification is expected in July, where no further consultation is agreed by the Committee.

**12 Attachments**

1. Attachment 1: Amendments Ch30 - Taking, Daming Diverting Water
2. Attachment 2: Amendments Ch31
3. Attachment 3: Waimea Basin CWS Service Map
4. Attachment 4: C63 Waimea Water Transition Management Evaluation Report