

Report No:	REP12-02-05
File No:	R420
Date:	7 February 2012
<b>Information Only - no decision required</b>	

## REPORT SUMMARY

**Report to:** Environment & Planning Committee  
**Meeting Date:** Thursday, 16 February 2012  
**Report Author:** Steve Markham, Policy Manager  
**Subject:** Resource Policy Programme Update February 2012

### EXECUTIVE SUMMARY

This report updates the content and progress to date in the resource Policy programme of projects.

### RECOMMENDATION/S

1. That the report REP12-02-05 be received
2. Notes that project outlines are in preparation for eventual Committee approval to commence for the following projects:
  - (i) National RMA instruments implementation programme;
  - (ii) Review and combination of Tasman Regional Policy Statement and TRMP
  - (iii) Land disturbance area - targeted review
3. That the Committee notes the potential value of commencement in 2012 of the project Golden Bay East settlements: Pohara to Tata following reporting on priority issues under the Council's 2012 Recovery Project (December 2011 event);

### DRAFT RESOLUTIONS

1. That the Environment & Planning Committee receives the Resource Policy Programme Update February 2012, Report REP12-02-05.
2. Notes that project outlines are in preparation for eventual Committee approval to commence for the following projects:
  - (i) National RMA instruments implementation programme;
  - (ii) Review and combination of Tasman Regional Policy Statement and TRMP
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## **1. PURPOSE OF REPORT**

1.1 This report provides an updated resource policy programme description and briefing on the current and likely situation with present and programmed projects.

## **2. BACKGROUND**

2.1 In July 2011 the Committee last considered the resource policy programme (EP 11/07/07 refers). Since July 2011 the following key achievements have taken place:

- Decisions on Change 16 Cultural Heritage Sites Management - notified; no appeals
- Decisions on Proposed Part IV (Rivers & Lakes) as package of variations and a change notified (two appeals on Part IV)
- Change 18 (Kina site rezoning), 19 (technical amendments to Parts 1 & 2), Changes 20 (Richmond East), 21 (fault rupture risk management), and Variation 71 (slope instability risk area review, Richmond) submissions heard (Hearing 61, July 2011) and decisions notified (two appeals on Change 20)
- Proposed Change 22 Mapua - Ruby Bay Development submissions received and heard (Hearing 62) in November 2011; decisions in progress
- Appeal mediation on water allocation reviews Motueka and Moutere with has continued, with the Court setting a hearing of the unresolved issues for February 2012
- Appeal mediation continued with parties for some of the Change 10 Richmond West appeals, in November and December; consent orders for some issues in progress as well as draft Variation 3 to Change 10.

- Following consideration of the flood risk situation in Takaka from floodplain modelling and risk response options, a community engagement process on the issues and options was run from November through to January 2012.
- Golden Bay landscapes change investigations work continues: identification and assessment of outstanding natural features and landscapes, and issues and options work, for use with the community working group in meetings in July, October and December.
- Operative regional coastal plan with amendments on the aquaculture provisions, through commencement of the Resource Management Amendment Act (No 2) 2011.

2.2 The outlook for 2012 and beyond is for further progress on a large number of live priority 1 projects. These are shown in the updated resource policy programme appended to this report (Appendix 1). The programme update codes the life-cycle status of all projects (to start, live, paused, ongoing); completed projects are no longer shown.

2.3 Since July 2011 we have moved a number of plan amendments through key milestones. Our professional resources have been augmented by recruitment of a replacement policy planner for a vacancy, and our new staff member is Maxine Day who comes with many years practice in parts of the North Island. In addition our part-time jobsharers Sonya and Lisa have returned from parental leave and are now operating at close to a FTE.

### **3. FUTURE PRIORITY PROJECTS**

3.1 The standing arrangement for new projects is for the Committee approve the start of any new project only after considering a scoping paper for the project. In December 2010 the Committee agreed that the Brightwater and Wakefield development reviews were priority 1 projects, but that they would not commence until Richmond East (Change 20) was heard and decided and changes were notified for Mapua-Ruby Bay, Motueka west & central, and Golden Bay landscapes. This was principally to achieve milestones with key currently live projects and because of staff capacity limits (ie. to avoid too many projects being undertaken by the same staff).

3.2 The rural subdivision and land use policy review project has commenced following approval to do so in October 2011 with investigations work including defining the information system needed to understand the pattern of change in rural subdivision and land use in the District, for evaluating the effectiveness of the current plan provisions over the past 15 years.

3.3 The strategic settlement reviews for both Brightwater and Wakefield remain not yet started, as the relevant milestones required before these projects are able to start, remain in progress. A key prerequisite for these settlement reviews is the modelling of flood hazard risk for both settlements (Pitfure-Waiiti-Wairoa), and is to be carried out this year (starting in the current financial year and spread into the next).

3.4 There are three further priority 1 projects for which an outline report will be provided in due course this year in order that approval to start may be given. These are:

- Consideration of the necessary changes to the TRMP to comply with obligations to implement the growing suite of national policy and regulatory instruments (national policy statements and national environmental standards)
- The review of the Tasman Regional Policy Statement and its combining with the Tasman Resource Management Plan, without unnecessary relitigation of settled issues, in the TRMP
- Land disturbance area - targeted review

3.5 National RMA instruments implementation programme

Staff advice is in development, on the size and scope of the possible overall programme of work (assessments and TRMP changes) considered necessary to implement a large number of national instruments - national policy statements and national environmental standards or other national regulations. This advice is expected to come to the committee in May.

3.6 Review and combination of the Tasman Regional Policy Statement

The Tasman Regional Policy Statement (TRPS) is a planning document required under the RMA despite our unitary authority status (the significant issues of the region are the same as the significant issues of the district). The TRPS fell due for review in its entirety on 1 July 2011 after ten years without amendment. In July 2010 the Committee agreed to the combining of the TRPS with the TRMP and its review not to commence before end 2011. The RMA does not deal well with combined unitary plans that involve their review at the same time, or that involve a regional policy statement. With the intention signalled by the government from 2010 of a second round of RMA reform, work was done by myself, together with the other four unitary authorities policy managers to draw to the attention of the Ministry for the Environment these problems. A paper (attachment 2 to this report) provides options to amend the law to expedite solutions, including a discretion whether to maintain a regional policy statement.

3.7 For Tasman the current law requires an evaluation of the effectiveness of the TRPS as a prior step to its review. Staff work is proceeding at present to scope this evaluation and a workable sequence of combining its useful content with the TRMP. However, clearly with an opportunity this year with the RMA Phase 2 reforms to deal with these issues, it is premature to bring an outline project yet to the Committee. A further uncertainty is the outcome of the poll of electors on the amalgamation of Nelson City and Tasman District. This if supported in both districts, would mean a single council may wish to combine all RMA planning documents for Nelson-Tasman. Advice on this project is expected to come to the committee in May.

- 3.8 Land disturbance area - targeted review  
For some time this review has been under consideration. The TRMP does not deal well with urban earthworks sedimentation and erosion risks; the recontouring permitted scope is inappropriate across the District; and there is also a link between naturally induced erosion via shallow slope failure, and land cover and earthworks. The December 2011 rainfall event showed this linkage in eastern Golden Bay. A team has looked at earthworks guidance material last year, arising from a series of workshops in late 2010, and an outline of this review project will come to the Committee shortly.
- 3.9 The settlement review work in Golden Bay is currently progressing in two areas: Takaka urban area following resolution of flood risk responses; and closely following the Golden Bay landscapes work, the small settlements north of Rangihaeata. For some time the eastern Golden Bay Pohara to Tata urban review has remained a priority 2 project. This is because of settlement work needing to make progress in Tasman Bay, as well as capacity issues. There is ongoing development demand in this urban area, albeit much seasonal in character, and with it are a number of priority issues. Staff capacity in the Resource Policy section has now been restored, and the December 2011 rainfall event has highlighted some of the pressing questions about urban futures in the Pohara to Tata area. The December Event Recovery Project for Tasman District is to do some work to help progress some of these issues. It may be appropriate to provide a fresh outline of the project at a point later this year that the Committee can use to decide whether to start work to address both development opportunities and risks in that urban area.

#### **4. RECOMMENDATIONS**

- 1. That the report REP12-02-05 be received**
- 2. Notes that project outlines are in preparation for eventual Committee approval to commence for the following projects:**
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  - (ii) Review and combination of Tasman Regional Policy Statement and TRMP**
  - (iii) Land disturbance area - targeted review**
- 3. That the Committee notes the potential value of commencement in 2012 of the project Golden Bay East settlements: Pohara to Tata following reporting on priority issues under the Council's 2012 Recovery Project (December 2011 event);**

## **5. DRAFT RESOLUTION**

- 1. That the Environment & Planning Committee receives the Resource Policy Programme Update February 2012, Report REP12-02-05.**
- 2. Notes that project outlines are in preparation for eventual Committee approval to commence for the following projects:**
  - (i) National RMA instruments implementation programme;**
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Steve Markham  
**Policy Manager**

### **Appendices:**

1. 2012 and Beyond Resource Policy Programme as at 1 February 2012
2. Issues with Unitary Authority Combined Plans and the Regional Policy Statement Under Part 5 RMA 1991

APPENDIX 1

**2012 AND BEYOND RESOURCE POLICY PROGRAMME  
AS AT 31 JANUARY 2012**

<b>Project No</b>	<b>Priority No.</b>	<b>Project Description</b>	<b>Project Status</b>	<b>Process Steps and Current Situation</b>	<b>Staff</b>	<b>Next Steps</b>
1.	1	Live appeals resolution	Live	<p><b>Steps</b> Resolution by consent order to EC, hearing by EC or withdrawal, of live appeals (14): Change 10 RWDA (6) Changes 23, 24 water allocation (2) Change 14 (2) Part IV (2) Change 20 (2)</p>	SM, NJ, MH, SN, DL, MAB, JT	Mediation, Court hearings or consideration of consent memoranda.
2.	1	Richmond West development plan - Change 10	Live	<p><b>Steps</b> Planning investigations and structure planning to support plan change; notified variations (now Change 10); Submissions, hearings, decisions and appeals. <b>Situation</b> Decisions notified 26 September 2009; 8 appeals received. Variation 1 Change 10 notified 19 December 2009, Variation 2 notified 22 May 2010. Further subs notified and closed 22 Nov 2010 Appeals mediation 22 - 23 June, 7 - 8 Dec 2010, 8 April, 4, 5 May, 27 October, 12 December 2011.</p>	SM, MH, DL, NJ, RS, SN	Complete appeals resolution. Development of integrated services & land rollout programme and other issues arising from appeals via Variation 3.
3.	1	Richmond central area development/intensification plan	Live	<p><b>Steps</b> Investigations into Nelson-Richmond urban intensification; assessment of options for locations and design; plan changes and infrastructure programming. <b>Situation</b> Approved as joint council and launched November 2007. Implementation programme recommended in July 2009 to include review of residential intensification regimes. This is the Richmond density study, to advance inquiry into locations and actions (briefing report July 2010).</p>	RB, SM, MH, SL, GC, DL, and others	Review of urban design framework for residential intensification (reporting September 2011) Development of a CBD

						development plan
4.	1	Richmond CBD development plan (interdept)	Live	<p><b>Steps</b> Investigations (retail demand and supply), urban design issues and options, design plan, plan change for CBZ, design guidance, services programme.</p> <p><b>Situation</b> The CBD development plan has commenced as an interdepartmental project with investigations and design issues and options inquiry in early 2011.</p>	SM, RB, GC, SD, RS, GT, DL, SE	Design plan through collaborative process, design guidance, plan change services programme.
5.	1	Richmond East development plan Change 20	Live	<p><b>Steps</b> Report on services and intensification options; draft plan change; consultation; notification; submissions; decisions; appeals.</p> <p><b>Situation</b> Joint council project for draft structure plan for Nelson south - Richmond East: project report considered 12 September 2007. Draft structure plan and services implementation programme community feedback April - May 2008, review and policy analysis of issues August 2008; further policy directions July 2009, draft plan change adopted for feedback December 2009. Change 20 notified 28 August 2010 with supporting amendments (C21, V71) for geohazard risk management. Submissions in November 2010, further submissions in March 2011. Hearing 61 July 2011; decisions notified September 2011. Two appeals.</p>	MH, SM, DL, NJ	Resolution of appeals.
6.	1	Mapua-Ruby Bay development	Live	<p><b>Steps</b> Reporting on situation re services, and scope for rezoning; structure planning; plan changes and infrastructure provision in LTP</p> <p><b>Situation</b> Reports to EPC June 2006, March 2007, and draft structure plan community feedback March - April 2008. Policy issues reported June 2008, progress updates December 2008, June 2009. Revised structure planning and coastal hazard risk assessment; waterfront development; reserves, all incorporated in draft change adopted for feedback May 2010. Feedback closed 10 July. Reporting to EPC 23 September with Change 22 for notification; further assessment of subdivision control options in hazard risk locations; report to 16 Dec</p>	RB, DL, JC, EV, RS	Decisions finalised and notified; appeals resolution.



				2010 EPC. Change 22 notified 26 February 2011, submissions in April 2011. Hearing 62 November 2011.		
7.	1	Golden Bay East settlement strategy: Takaka and south Takaka	Live	<p><b>Steps</b> Takaka zoning review to avoid flood risk exposure of further land; and south Takaka (Park Avenue) structure planning to provide for first stage of concept additional township (refer EP07-09-06 for description)</p> <p><b>Situation</b> Project priority confirmed May 2008 but paused pending appeals resolution Change 8. Takaka - south Takaka investigations and structure planning; draft SP considered December 2009 and now paused while Takaka floodplain modelling and risk assessment completed. Modelling report and options assessment considered by council February 2011 in workshop; further information refinement. Flood risk situation, issues and response options reporting August 2011; community engagement process November 2011 - January 2012.</p>	LM, DL, SN, RS	Review of Takaka flood risk response options, and assessment of urban development issues and options to support draft plan change for Takaka and environs.
8.	2	Golden Bay East settlement strategy: Pohara-Tarakohe-Ligar-Tata	To start	<p><b>Steps</b> Investigations and structure planning to provide for shape and extent of settlement development in the area integrated with rural land management (non-settlement protection) (refer EP07-09-06 for description)</p> <p><b>Situation</b> Project priority confirmed May 2008 but paused pending appeals resolution. Change 8 operative Oct 2010. Paused while other priority 1 projects advanced.</p>	LM, MD, DL, SN, RS	Approval to start, investigations, issues and options, draft structure plan; plan change
9.	1	Golden Bay strategic planning: landscape protection and West settlement strategy	Live	<p><b>Steps</b> Strategic issues investigations; Issues and options paper; consultative process leading to TRMP changes 2008 onwards. This work is to include the addressing landscape management and the protection of outstanding natural features and landscapes (ONFLs) in Golden Bay (Kahurangi Point to Separation Point), integrated with reviews of settlement areas on GB east and west, and rural policy review projects.</p> <p><b>Situation</b> Project commenced December 2007; investigations and targeted stakeholder engagement early 2008; preparatory to issues and</p>	SN, DH, NJ	Presentation to community working group of draft ONFL findings, further development of policy options assessment, development of draft plan change and further

				options discussion paper and community feedback. Work recontinued from July 2010 to achieve comprehensive information base, to use in findings for ONFLs, and planning options assessment, community collaboration through working group, leading to notified change for whole of GB landscape management by mid 2012 (refer EP11.01.06 and EP 11.07.04). Review of western settlement pattern with separate plan change.		engagement with communities.
10.	1	Motueka west & central development plan	Live	<p><b>Steps</b> Update on services; Demand estimates for urban land (business; residential); Structure plan options; Liaison with iwi landowners; Plan change and services programming.</p> <p><b>Situation</b> Investigations for demand estimations and outline services plan to support concept structure plan. Liaison with iwi landowners. Report on demand and supply information and planning process March 2008; draft structure plan reported November 2008; community consultation February - April 2009. Issues reporting July 2009 with review of draft structure plan. Motueka transportation study commenced May 2009 and finalised February 2010. Draft change commenced September 2010 and to EPC on 16 December 2010. Draft change circulated for community feedback March - April 2011. Draft considered by EPC August 2011, paused for resolution of issue of rollout feasibility (through termination of Maori perpetual leasehold tenure).</p>	RB, DL, JC, GC	Further development of draft change and adopt proposed change.
11.	1	Change 14 frost protection devices	Live	<p><b>Steps</b> Planning investigations; notified change; Submissions, hearing and decisions</p> <p><b>Situation</b> Change notified 9 May 2009; submissions received; hearing; decisions notified 22 May 2010. Two appeals; mediation held 7 December 2010. Further options for resolution considered by committee May 2011. Further mediation November 2011; consent order in progress.</p>	NJ	Resolve appeals. Approval and operative change.
12.	1	Change 16 cultural heritage sites management	Live	<p><b>Steps</b> Planning investigations; notified change; Submissions, hearing and decisions</p>	SL	Approval and operative change,

				<p><b>Situation</b> Change notified 26 September 2009; submissions close 15 February 2010. Further submissions in September 2010; heard in Hearing 60 March 2011. Decisions notified July 2011; no appeals.</p>		implementation of database and process guidance system.
13.	1	Fault Rupture Risk Area Change 21	Live	<p><b>Steps</b> Investigations into active fault systems; review of plan provisions; plan change.</p> <p><b>Situation</b> Updated mapping and rupture hazard advice received 2006, 2008. Draft change adopted for feedback December 2009. Change notified 28 August 2010. Submissions in. Hearing 61 July 2011; decisions notified Sept 2011. No appeals.</p>	NJ, SM	Approval and operative change.
14.	1	Review of Slope Instability Risk Area, Richmond Variation 71 (now Change 31)	Live	<p><b>Steps</b> Investigation into current information on Richmond east slope instability hazard risk; review of plan provisions; plan change.</p> <p><b>Situation</b> Updated mapping and hazard risk advice received 2009. Draft change adopted for feedback December 2009. Change notified 28 August 2010. Submissions in. Hearing 61 July 2011; decisions notified Sept 2011. No appeals.</p>	NJ, SM	Approval and operative change.
15.	1	Land disturbance area - targeted review	To start	<p><b>Steps</b> Investigation into current issues with sediment and erosion risks in targeted situations eg. urban earthworks; rural earthworks; review of plan provisions; plan change.</p> <p><b>Situation</b> Priority programme of land disturbance management measures derived from workshops on erosion and sediment control in late 2009. Practice guidance for sediment and erosion control developed 2011. Project scoping for regulatory review to commence.</p>	MAB, LM, LP, DS, WG, TJ, LV	Approval to start, issues and options assessed, draft change
16.	1	TRMP land use administration issues requiring review	Ongoing	<p><b>Steps</b> Series of reports on specific issues arising from administration; Plan change processes for priority issues.</p> <p><b>Situation</b></p>	RB; NJ and team	Further assessment of priority issues.

				Reported on issues and priorities February 2007. Technical amendments Change 18 Technical amendments adopted and notified 22 May 2010. Report on recreational / commercial motorcycling activity due early 2011 (held over pending Ombudsman investigation). Wall offset rule to be assessed for change.		
17.	1	Brightwater strategic development planning	To start	<b>Steps</b> Review of urban development strategy for Brightwater: issues paper; structure planning; TRMP change process (EP07-12-04 for description)	RB, SN, DL, RS and others	Approval to start, issues and options assessed, draft change
18.	1	Wakefield strategic development planning	To start	<b>Steps</b> Review of urban development strategy for Wakefield: investigations; issues paper; structure planning; TRMP change process (EP07-12-04 for description)	RB, SN, DL, RS and others	Approval to start, issues and options assessed, draft change
19.	1	Review of Engineering Standards and Policies (ESP) and network services rules (including Change 4 update) & design guidance consolidation (interdept)	Live	<b>Steps</b> Change 4 notified; review of issues in light of Richmond planning, ESP review and Project Stormwater; further advice; further change. <b>Situation</b> Change 4 notified 2005. Hearing of submissions on Change 4 deferred pending resolution of content in Plan arising from reviewed ESP. Further principles-based research on urban stormwater management in Project Stormwater 2009 - 2011. Review of ESP and design guidance following NZS 4404.	NJ, LM, DL, GC	Advice on issues and options; ESP review and plan change.
20.	1	Variations 25/33 (Change 3) CE land disturbance	Paused	<b>Steps</b> Hearings; decisions; appeals. <b>Situation</b> Reporting on submissions.	SM	Reporting; and hearing of submissions.
21.	1	Rural subdivision & land use policy review	Live	<b>Steps</b> Investigations and reporting on priority rural policy issues within rural subdivision and land use; TRMP change processes. <b>Situation</b> Review of issues paused since 2006; project rescoping with updated situation assessment in 2011. Development of rural land use monitoring system.	MH, MAB, SL, AB, SM and others	Monitoring system defined; policy effectiveness evaluation. Investigation into issues and options.
22.	1	Indigenous biodiversity	Live	<b>Steps</b>	LV, SM,	Ongoing

		management and action plan for advocacy (Native Habitats Tasman)		<p>Situation report; SNA investigation.</p> <p><b>Situation</b>            Situation reports to EPC May, June 2007 on biodiversity management and SNA investigation agreement. Reporting to EPC December 2007.            Commencement of SNA investigation tasks as agreed. Launch of Tasman Native Habitats project early 2008. Ongoing liaison in priority area of district with reporting and landowner assistance actions. Governance through oversight group.</p>	external stakeholders	advocacy with landowners across priority parts of district. Review in 2013 of biodiversity management achievements, risks and responses.
23.	1	Aquaculture management following RMAA (No 2) 2011	Live	<p><b>Situation</b>            Regional coastal plan including amended aquaculture rules operative October 2011 by RMAA (No 2) 2011. Assessment of government commissioned research into additive aquaculture.</p>	NJ	Reporting and Council position on tendering notified
24.	1	Waimea Inlet and catchments integrated management strategy	Live	<p><b>Steps</b>            Stocktake of resource values, issues; review of options; formulation of new actions for integration into informal strategy (refer EP07-12-04; EP09/10/2 for description)</p> <p><b>Situation</b>            Approval to commence project December 2007. Inception meeting July 2008 with key stakeholders. Project management proposal to July, October 2009 meetings. Project jointly with NCC launched late November 2009. Estuary vulnerability assessment April; public symposium May 2010. Draft strategy prepared; final strategy adopted August 2010 by both councils, NMFGC and DOC (NM). Community forum meetings in February 2011; set up internal system for annual check on implementation progress.</p>	NJ, TJ, RS, SM, BW with MW, PS of NCC	Implementation audit process by community and councils required.
25.	1	TRMP Part IV: Rivers and Lakes and consequential changes (Variation 68, Changes 17, 26, 27)	Live	<p><b>Steps</b>            Draft policy paper for consultation; policy decisions; consultation with draft Part IV;            TRMP variations notified; submissions; decisions; appeals.</p> <p><b>Situation</b>            Briefings on issues and draft policy options on 19 July and 23 August 2006; further drafting of regulatory means of implementing preferred policy options in paper ongoing through 2007 and into 2008 (EP08/12/12). Reporting on issues EP09/04/13; EP09/06/09. Draft part consultation July - September 2009. Revised draft adopted October 2009. Package of Change 17 and Variations 67 -</p>	MAB, TJ	Resolution of appeals.

				69 notified 27 February 2010. Submissions and further submissions in 22 November 2010. Reporting and hearing March 2011. Decisions notified July 2011. Two appeals.		
26.	1	Deep Moutere groundwater allocation review and waiting lists - Changes 12 & 23 (Variation 65)	Live	<p><b>Steps</b> Resource statement and issues and options paper, consult with users; draft variation; notification; submissions; decisions; appeals</p> <p><b>Situation</b> Reported to EPC on situation following investigations August 2006; reported 12 July 2007 on issues and preferred option; 23 August 2007 draft variation adopted for notification subject to staff management of waiting lists. Further reporting April 2008. Variation 65 (includes Change 12) notified 26 July 2008; hearing of submissions September 2009. Commissioner report and recommendations adopted November 2009. Decisions notified 19 December 2009. One appeal. Mediation Sept 2010. Further informal meetings; hearing set down for 27 Feb 2012.</p>	MAB, JT	Appeals resolution.
27.	1	Motueka water allocation review - Changes 13 and 24 (Variation 66)	Live	<p><b>Steps</b> Review of CPZ allocation limit following modelling results; review of reservation regime; plan variation process.</p> <p><b>Situation</b> Variation preparation and report to EPC in October 2008. Variation 66/Change 13 notified 13 December 2008; Hearing of submissions September 2009. Commissioner report and recommendations adopted November 2009. Decisions notified 19 December 2009. Three appeals. Mediation Sept 2010. Further informal meetings; hearing set down for 27 Feb 2012.</p>	MAB, JT	Appeals resolution.
28.	1	Urban stormwater management Project Stormwater (interdept)	Live	<p><b>Steps</b> Review of across-council stormwater management outcomes; systems and process issues; tasks; and review of planning documents and arrangements and other actions as required.</p> <p><b>Situation</b> Review of outcomes for stormwater management, systems and processes 2006 - 2009. Briefing to managers May 2009. Priority workstreams identified; project is progressing as interdepartmental project.</p>	SL, LM, SE, consents, assets, community services staff	Confirmation of priority workstreams with management and funding to be confirmed via LTP.
29.	1	Advice on policy issues raised by central government or other	Ongoing	Reporting ongoing in response to government or iwi proposals	Policy team, Manager and others	Responses as required.

		agencies including iwi: legislation, policy statements, management plans, water conservation order processes				
30.	1	National RMA instruments implementation	Live	Reporting on implementation programme across operative national instruments; staged programmes of investigations and policy reviews to implement as separate projects	SM,NJ, MAB, MH, MD, others	Reporting on programme and priorities
31.	2	Review and combination of Tasman Regional Policy Statement and TRMP	Not started	<p><b>Steps</b> Review content and consistency of TRMP with TRPS; effectiveness evaluation of TRPS; scoping of combining TRPS with TRMP and process involved; review of essential TRPS content to combine with TRMP (Maori policy issues of significance); process management.</p> <p><b>Situation</b> Support for Tasman iwi management plan to provide basis for review of Maori policy issues. Support EPC July 2010 for combining TRPS with TRMP. Legal issues pursued with government 2011.</p>	SM and team	Scoped project, process resolved , draft effectiveness reporting on TRPS
32.	2	Riparian land management strategy	Not started	Situation report; possible review of RLMS; plan change.	LV et al.	Situation report.
33.	2	Natural hazards strategic policy review (interdept)	Not started	<p><b>Steps</b> Review of District approach: Specific investigations into floodplain, coastal, ground instability hazard risks; review of policy issues and options; TRMP change processes.</p> <p><b>Situation</b> Specific investigations under way for hazards risk management at Mapua-Ruby Bay, Takaka, Motueka, and Richmond under separate projects. Review is an interdepartmental project will integrate investigations and planning approaches.</p>	NJ, EV, GS, PD, SM	Project scope and process to be defined.
34.	2	Coastal craft issues ( Abel Tasman coastline) and ATNP foreshore reserve Management Plan	Not started	<p><b>Steps</b> Development of ATNP foreshore reserve Management Plan. Advice on craft management under foreshore reserve MP and TRMP.</p> <p><b>Situation</b> ATNP foreshore reserve Management Plan in development. Policy advice on managing effects of coastal craft following establishment of foreshore reserve management plan.</p>	NJ	Policy advice to Council.
35.	2	Upper Motueka water	Not	<b>Steps</b>	MAB, JT	Reporting on

		allocation development	started	Complete investigations; define issues and options; consult with stakeholders; draft variation; notification; submissions; decisions; appeals. <b>Situation</b> Investigations reported 28 August 2006.		resource situation and issues and options.
36.	2	Takaka catchment water management	Not started	<b>Steps</b> Issues and options with resource statement; TRMP change process	MAB, JT, GS	Resource investigations summary and issues & options paper.
37.	3	Onsite wastewater management:	Not started	<b>Steps</b> Review of district approach: Risk assessment of settlement pattern re domestic wastewater contamination following CTA wastewater management area. Investigations with policy review; TRMP change process	MAB, DL	Issues and options paper
38.	3	Tasman (village) strategic development review Refer EP07-12-04 for description	Not started	<b>Steps</b> Investigations; issues paper; structure plan for Tasman; TRMP change process		Investigations report and issues paper
39.	3	Tasman Bay landscapes	Not started	<b>Steps</b> Investigations; issues paper, settlement and rural land management issues and options; TRMP change process (refer EP08-04-13 for description).  <b>Situation</b> The project is to deliver on contracted commitment to coastal landscape protection review.	SN	Investigations report and issues paper
40.	3	Plan implementation monitoring, evaluation and reporting system development:	Not started	<b>Steps</b> RMA requires five yearly reporting on operative plans: Database and monitoring process development in conjunction with EMRS and website reporting. System setup required.	SM and team	Project scope and process to be defined.



**ISSUES WITH UNITARY AUTHORITY COMBINED PLANS AND THE  
REGIONAL POLICY STATEMENT UNDER PART 5  
RESOURCE MANAGEMENT ACT 1991**

August 2011

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**EXECUTIVE SUMMARY**

This document is a paper supported by the five unitary authority policy or planning managers - from the Gisborne, Marlborough, Nelson, Tasman and Auckland councils - to recommend amendments to the Resource Management Act 1991 (RMA) to improve the certainty and operational practicality of developing single unitary authority plans that deal with the regional policy statement (RPS).

The relevance and value of a RPS alongside the other plans under RMA in a unitary authority situation, has been an issue. In a unitary authority region, there is not a multitude of territorial authorities whose activities need to be co-ordinated, and so this integrating function of a RPS is limited. The territorial area of jurisdiction for each of the unitary authorities is the same for its functions as a regional council and as territorial authority. In the unitary region, tiering of the resource management planning framework - the RPS provisions and the rest that give effect to the RPS - is only of value if the council concerned so decides for a strategic policy reason, rather than for any statutory reason. The current statutory tiering of the RPS and the rest has the additional feature of limiting private plan change requests (PPCRs) to amend any planning provisions other than RPS provisions.

For any unitary region that seeks to combine all its RMA plan content in a single combined plan, unless objectives, policies and methods can be both RPS provisions and other provisions at the same time, there must be two tiers of these provisions (RPS and the rest).

The RPS tier must be given effect to by all other plan provisions. These consequences are considered to be unnecessary duplication and inefficient complexity in any unitary region.

Section 80 RMA requires any combined plan to clearly identify all provisions that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be. There is an uncertainty as to whether this allows the combined plan to have objectives, policies or method provisions that are identified as being both RPS provisions and other plan provisions. If two tiers of provisions can be attenuated or removed entirely, then this would make the need for retaining a RPS in a unitary region much less of an issue.

One option is to make the RPS discretionary for any unitary authority, whether or not there is a combined plan, but retain provision for limiting PPCRs over some plan provisions if the RPS is dispensed with. This option would reduce the complexity and duplication of combined plan provisions and sets of plans and associated saved process costs (eg. avoiding the community cost of having to participate in a separate RPS review process that adds little value), with retention of flexibility to tier plan provisions where appropriate. It would require a law change.

This first option is recommended as a matter of urgency as it has an assessed significant net benefit if implemented immediately.

A second option is the status quo: to retain the RPS as obligatory for any unitary authority; this would continue the potential complexity and duplication in combined planning and associated process costs. The legal uncertainty concerning ability to reduce or remove tiering would remain. This option if not accompanied by some improvements is considered to be unacceptable, and on its own is not recommended.

A third option can operate alongside either of these options; this is to amend the RMA in section 80 to clarify that there is no bar to any combined plan objective, policy or method being simultaneously an objective, policy or method of the RPS, and RCP, RP and/or DP. This would remove legal uncertainty to enable removal of duplication in any combined plan and reduction of complexity and associated process cost savings. It would require a law change. This third option is also recommended as a matter of urgency.

A further issue is the combining of a RPS with a unitary authority combined plan already in existence where a full RPS review is required. The law (as a result of the 2009 RM (Simplifying and Streamlining) AA 2009 now appears to encourage integrated plans and rolling reviews. The obligation in s 79 has shifted from review the whole plan (RPS) from ten years of operative life, to review the plan (RPS) provision that has been unamended for that period. However, this might be the entire RPS. S 79 now allows the council concerned to make no alteration following such a RPS review, but the unaltered RPS content then must be available for public submission.

The issue is that such a review process will take multiple changes over some time, to accommodate RPS provisions especially in moving towards a single combined plan either where there is one already, or where presently there is none. This rolling review exposes unaltered RPS content to submissions under s 79(7), where the review and combining of any part of the future plan content has not yet been

proposed. To avoid this risk by attempting the review and combining as a single amendment process, has significant cost implications.

Two options to address this issue are either to remove the obligatory review of RPS provisions after 10 years; or to enable a RPS staged review period that avoids submissions on unaltered RPS content. Either would require a law change. The second of these is recommended as a matter of urgency.

Three recommendations are made to address the issues under the RMA with unitary authority combined plans and the regional policy statement. These are:

1. Make the RPS discretionary for any unitary authority but retain provision for limiting private plan change requests over some combined plan provisions, and address issues of significance to iwi authorities, if the RPS is dispensed with
2. Clarify the jurisdictional status of combined plan content in section 80 to allow certain provisions to be either or both RPS and other plan provisions
3. Enable a RPS staged review period in section 79 that avoids submissions on unaltered RPS content
4. Any other consequential changes necessary.

The officers are available to obtain confirmation of their respective councils' positions on these issues and recommended solutions, and to help in defining the case for law amendment.

## **1 CONTEXT**

Since RMA commenced all regions have operative RPSs with many due for review. The five unitary authority regions - Gisborne, Marlborough, Nelson, Tasman and Auckland - are at broadly similar developmental stages under RMA in looking at the benefits, costs and processes for creating a single combined plan under s 80 to incorporate the RPS, regional coastal plan (RCP), district plan (DP), and other regional plan (RP) provisions. The four "provincial" unitary authorities each has its RPS being due for review. Three (Marlborough, Nelson and Tasman) have a comprehensive combined plan of RCP, DP and RP, with most provisions in these plans being operative. Gisborne has two combined plans it seeks to move towards a single plan, with its RPS review.

The intention of all four of the provincial unitary authorities is to work towards a single combined plan with all the above plan jurisdictions melded. This possibility has been available under RMA since its 2005 amendment, with a minor refinement made in the 2009 amendment. The Auckland unitary authority has to combine its inherited plans under its local legislation as well as prepare a spatial plan. The jurisdictional scope of the Auckland combined plan under RMA including the RPS, and the relationship of a combined plan with the Auckland spatial plan, are current Auckland metropolitan issues. These issues will become relevant to anywhere in the rest of New Zealand over which a statutory basis for a spatial plan might be defined.

This paper has arisen from consideration since 2010 by four of the five unitary authority policy managers within the Regional Policy Managers special interest group (SIG) with the intention of using it to advance a conversation with the government

through managers within the Ministry for the Environment. The Policy Managers SIG is drawn from the 16 regional councils and unitary authorities in New Zealand and reports to the Resource Managers Group (RMG) of senior managers in regional councils and unitary authorities. Two of this paper's authors (Pere Hawes from Marlborough District Council and Hans van Kregten from Gisborne District Council) are also RMG members. The RMG has been made aware of the issues facing unitary authority plan-making under RMA and supports the development of this paper to examine the issues and options and so advance some preferred solutions with the government.

## **2 THE ISSUES**

### **2.1 The need for a RPS in a unitary region**

Since 1991 for Gisborne, and since 1992 for Marlborough, Nelson and Tasman, the relevance and value of a RPS alongside the other plans under RMA in a unitary authority situation, has been an issue. This question arises as the territorial area of jurisdiction for each of these unitary authorities has been the same for its functions as a regional council (under s 30 RMA) and as territorial authority (s 31 RMA). This means that as the regional functions apply over the same area as the territorial authority functions, there is nothing unique in planning terms to develop within a RPS that cannot also be developed in the other plans (whether or not these are combined as one) for such regions. In other regions in the country, the tiering of planning provisions by having RPS objectives, policies and methods as the first tier, has two distinct values of:

- (1) providing for integrated resource management in the region<sup>1</sup>; and
- (2) influencing the second tier of other regional plan provisions and constituent territorial authority plan provisions through the duty for all that plan content to give effect to RPS provisions<sup>2</sup>.

But for unitary authority planning, the significant issues of the region are the same as the significant issues of the district or city, and integrated resource management can therefore permeate all of the unitary authority's planning outputs. In the unitary region, tiering of the resource management planning framework is only of value if the council concerned decides that this has merit (eg. where general and specific policy provisions for any particular objective are considered desirable).

The need for two tiers of provisions in any RMA planning by a unitary authority (RPS provisions and the rest) has long been questioned by at least three of the four provincial authorities. A content analysis of these plans shows that most RPS provisions parallel the present combined plan content administered by those councils. All four provincial unitary authority RPSs have undergone little or no amendment over their last decade of operative life. However, since RMA commenced, having a separate RPS in addition to the remaining set of obligatory or discretionary plans has been the law.

The RMA sets out<sup>3</sup> that the statutory tiering has the additional feature of limiting private plan change requests (PPCRs) to amend any planning provisions other than

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<sup>1</sup> Section 30(1)(a)

<sup>2</sup> Sections 65(6) and 75(3)

RPS provisions. This feature further entrenches the RPS provisions in any region. For a unitary region, this is a further effect of having to retain RPS provisions, whether or not these are contained in any combined unitary plan.

So the consequences for any unitary region that seeks to combine all its plan content in a single combined plan, are:

- (1) within the plan, there must be two tiers of objectives, policies and methods (RPS provisions and the rest)
- (2) the RPS tier must be given effect to by the second tier and other plan provisions (all rules)
- (3) the RPS tier of provisions is not able to be amended by any PPCR.

The first two consequences are considered to be unnecessary duplication and inefficient complexity in any unitary region. In relation to the first consequence, there is a further issue. Section 80 RMA sets out the requirements for any combined plan. In the situation where a RPS is combined with other plans, s 80(8) *inter alia* requires the combined plan:

“to clearly identify the provisions of the document that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be ...”

In Marlborough the view has been taken based on legal advice that this provision of the law is no bar to the combined plan having objectives, policies or method provisions that are identified as **both RPS provisions and other plan provisions**. If this is legally correct, then the first consequence above of having to have two tiers can be attenuated or removed entirely. This would reduce the significance of the broader question of the need for retaining a RPS in a unitary region. However, this view and the legal advice supporting it are considered to be a substantially uncertain basis on which any unitary authority should proceed to define the structure and content for any combined planning document and the extent of limiting of PPCRs by way of RPS provisions. The Horizons region’s one plan does not give any dual status to provisions. Marlborough is the first unitary authority to proceed on this dual status basis in the configuration of its combined plan involving RPS content. The law needs clarification of its scope of application under s 80(8).

A further dimension to the issue is the context at least for Auckland at present, regarding the relationship between any combined unitary plan and the spatial plan. For the other unitary authorities this is a theoretical matter; but for Auckland, it is a significant consideration. The scope and potential effect of a spatial plan extends beyond sustainable resource management under RMA, and traverses the scope of sustainable development for community wellbeing under the Local Government Act 2002 planning instruments, and perhaps further still. Auckland is currently exploring the role and relationship of its RPS with its spatial plan, and also its intended combined plan. This paper stops at any inclusion of spatial plans with the issues concerning RPS for unitary authorities generally; but it acknowledges the relevance of these considerations.

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<sup>3</sup> Schedule 1, Clause 21

## 2.2 The options concerning the need for RPS

### **Option 1 Make the RPS discretionary for any unitary authority but retain provision for limiting private plan change requests over some combined plan provisions, and address issues of significance to iwi authorities, if RPS dispensed with**

This option seeks to simplify the tiering of provisions required under current law for unitary authority plan-making, regardless of whether a single combined plan that contains RPS provisions, is pursued. The assumption is that tiering as described above is unnecessary to continue to be obligatory for any unitary authority, and so unless a discretion is exercised for regional resource management reasons, the RMA need not require the continued preparation of RPS provisions for any unitary authority.

A feature of this option is that the RPS tiering created by the limiting of PPCRs only to other plans is also addressed by retaining this protection otherwise given to RPS provisions, for applying to specified objective, policy or method provisions in any unitary authority plan, preferably only where a combined plan is pursued. A further feature is that combined plan provisions would need to address significant issues to iwi authorities in the region.

#### Benefits:

1. Reduced complexity and duplication of plan provisions and sets of plans and associated saved process costs
2. Retention of flexibility to tier plan provisions where appropriate by retaining RPS as a discretion

#### Costs:

Costs of law amendment

#### Risks:

Loss of the protection from PPCRs for specified provisions in any of its plans where a council elects to dispense with a RPS, if there is no amendment to the law limiting such requests as assumed above with this option.

This option is **recommended** as a matter of urgency as the benefits substantially outweigh the costs and risks.

### **Option 2 Retain the RPS as obligatory for any unitary authority**

This option is the status quo law.

#### Benefits:

None unless retention of tiering for unitary planning is considered a benefit.

#### Costs:

Retention of complexity and duplication in combined planning and associated process costs.

Risks:

Retention of legal uncertainty concerning ability to reduce or remove tiering under s 80 RMA unless option 3 pursued.

This option is **not recommended** as the benefits are outweighed by the costs and risks.

**Option 3 Clarify the jurisdictional status of combined plan content in section 80 to allow certain provisions to be either or both RPS and other plan provisions**

This option can operate alongside either option 1 or 2. The option is to amend the RMA in section 80 to clarify that there is no bar to any combined plan objective, policy or method being simultaneously an objective, policy or method of the RPS, and RP and/or DP (a dual or wider jurisdictional status).

Benefits:

Removal of uncertainty to enable any specified extent of tiering of RPS provisions in any combined plan and so removal of duplication and reduction of complexity and associated saved process costs

Costs:

Costs of law amendment

Risks:

Potential limitations on resource use arising from any extension of RPS provision status to all objectives, policies and methods in any combined plan.

This option is **recommended** as a matter of urgency as the benefits substantially outweigh the costs and risks.

### **2.3 Reviewing RPS to combine with a combined plan under section 79**

The four provincial unitary authorities each wishes to move to combine its RPS with the rest of the council's plans. For Auckland, there is a requirement to review that council's plans and a single combined plan is being considered.

The law (as a result of the 2009 RM (Simplifying and Streamlining) AA 2009 now appears to encourage integrated plans and rolling reviews. The obligation in s 79 has shifted from review the whole plan (RPS) from ten years of operative life, to review the plan (RPS) provision that has been unamended for that period. Under section 79, a review of the RPS operative provisions is required after their tenth unamended anniversary. All four provincial unitary authorities have not amended their RPS within the ten years. Thus a full review is required. The law allows the council concerned to make no alteration following such a review, but the unaltered RPS content must then be available for public submission.

With the aim of combining RPS with the combined plan already in existence (except for Gisborne), the review process will likely involve rationalisation of RPS content alongside combined plan content to produce a melded framework of objectives, policies and methods, with or without tiering.

The issue is that such a review process will take multiple changes over some time, to accommodate RPS provisions especially in moving towards a single combined plan either where there is one already, or where presently there is none. This rolling review exposes unaltered RPS content to submissions under s 79(7), where the review and combining of any part of the future plan content has not yet been proposed. To avoid this risk by attempting the review and combining as a single amendment process, has significant cost implications. This is especially so for Gisborne where there is currently several plans that are intended to be combined along with the present RPS.

Review and combining by a single amendment process under Schedule 1 is the only way to avoid ongoing submission exposure to RPS content yet unaltered.

This issue has the fate of a unitary authority RPS as its context, and as well, any of the options assessed above in this paper. Thus the options below are linked with those above.

## **2.4 The options for RPS review and combining with other plans**

### **Option 4 Remove obligatory review of RPS provisions after 10 years in section 79**

This option removes the obligation in section 79 RMA for any unitary authority to review any RPS content after ten years of its operative existence, and enables a discretion to be applied by the council as to whether and when to review any RPS provision that is more than ten years old. This option could apply alongside either of options 1 and 2 above in relation to the issue of the need for a RPS in a unitary region.

#### Benefits:

More flexibility by a unitary authority to manage its RPS content especially in the light of a combined plan.

#### Costs:

Costs of law amendment.

#### Risks:

Reduced incentive to review the RPS and so public risks of unresponsive plan content.

Option 4 is not recommended on its own, as it is not efficient for the RMA to require a RPS and then not require a review.

### **Option 5 Enable a RPS staged review period in section 79 that avoids submissions on unaltered RPS content**

This option suspends the obligation in section 79(3) RMA for any unitary authority to notify unamended RPS provisions in the course of a ten year review, for a period of say five years, in the circumstance of the council combining the RPS with other plans.



Benefits:

1. More flexibility by a unitary authority to manage its RPS content especially in the light of a combined plan
2. Reduced process costs at one time, and avoidance of repetitive contests under RMA Schedule 1.

Costs:

Costs of law amendment.

Option 5 is **recommended** as a matter of urgency as it is of greater net benefit than either the status quo or option 4 but requires immediate action by way of law amendment to avoid significant costs.

### **3 RECOMMENDATIONS**

Three recommendations are proposed arising from the two issues and assessed options. These are:

- Option 1** Make the RPS discretionary for any unitary authority but retain provision for limiting private plan change requests over some combined plan provisions, and address issues of significance to iwi authorities, if RPS dispensed with
- Option 3** Clarify the jurisdictional status of combined plan content in section 80 to allow certain provisions to be either or both RPS and other plan provisions
- Option 5** Enable a RPS staged review period in section 79 that avoids submissions on unaltered RPS content

All these options are recommended to be considered by the Government for amendments to the RMA as a matter of urgency, as the five unitary authorities are in the course of committing significant public expenditure to plan review and combining processes that would all benefit from the law amendments identified. Consequential amendments may be necessary. The recommended amendments need to be progressed by 2012 to allow significant cost savings and flexibility benefits to be realised.

The council officers are available to obtain confirmation of their respective councils' positions on these issues and recommended solutions. We are also very committed to working with the Ministry to develop the cases for the recommended amendments.