

Northland Regional Council Regional Policy Committee

Meeting Agenda

Regional Policy Committee

For meeting to be held in the Council Chambers,
36 Water Street, Whangarei, on
Monday, 02 December 2013,
commencing at 1.00pm

**NORTHLAND REGIONAL COUNCIL
Regional Policy Committee**

Agenda

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OPEN MEETING

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3.0	PRESENTATIONS	
	Overview of Northland Regional Council's Resource Management Planning (the presentation relates to all the agenda items below).	
4.0	REGIONAL POLICY	-
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ISSUE: Regional Policy Committee - Terms of Reference and External Appointments

ID: A597197

To: Regional Policy Committee Meeting, 2 November 2013

From: Chris Taylor, Council Secretary

Date: 13 November 2013

Summary The purpose of this report is to enable the Regional Policy Committee to review its terms of reference and consider the merit of external appointments to the committee. The report concludes that any amendments to the terms of reference or external appointments be recommended to full council for approval.

Report Type:	<input checked="" type="checkbox"/> Normal operations	<input type="checkbox"/> Information	<input type="checkbox"/> Decision
Purpose:	<input type="checkbox"/> Infrastructure	<input type="checkbox"/> Public service	<input type="checkbox"/> Regulatory function
	<input checked="" type="checkbox"/> Legislative function	<input type="checkbox"/> Annual\Long Term Plan	<input checked="" type="checkbox"/> Other
Significance:	<input type="checkbox"/> High	<input type="checkbox"/> Moderate	<input checked="" type="checkbox"/> Low

Background:

At the 6 November 2013 council meeting it was resolved that:

1. That council adopts the terms of reference for the Regional Policy Committee as outlined in Attachment 7, of Tabled Item 7.2 of the 6 November 2013 [Council Meeting Agenda](#)
2. That the Regional Policy Committee review the terms of reference as a first order of business and recommend any changes back to council.
3. That the Regional Policy Committee considers the desirability of external appointments to the committee in line with its terms of reference.

The terms of reference for the Regional Policy Committee (the committee) as adopted by council are included as **attachment 1**. Any agreed changes to the terms of reference will be subsequently recommended back to full council for approval.

In the previous triennium the territorial local authorities nominated representatives to the committee and the iwi chief executives were invited to nominate a representative. Council considered external representation was necessary to achieve a collaborative approach to the development of the Proposed Regional Policy Statement for Northland (RPS). Now that the development of the RPS has concluded, the committee needs to consider the merit of external organisations or group representation on the committee.

Staff consider that representation from the territorial local authorities and iwi may be desirable for drafting any new regional plan (but is less applicable during the early internal review process for the existing plans.) That said external representation signals collaboration and partnership, which the committee may value highly at the early stages of the triennium. The value to the external organisations of being

involved will be dependent on the work-programmes adopted by the committee to fulfil its terms of reference. Any agreed appointments will also be recommended back to council for approval.

Legal Compliance & Significance Assessment:

The activities detailed in this report are in accordance with section 32 of the Local Government Act regarding delegations and also in accordance with the council's decision-making process and sections 76-82 of the Local Government Act 2002.

This matter has been assessed against council policy and is deemed to be of low significance.

Recommendations:

1. That the report "Regional Policy Committee - Terms of Reference and External Appointments" by Chris Taylor, Council Secretary, and dated 20 November 2013, be received.

2. That the amendments to the terms of reference for the Regional Policy Committee are as follows:

be recommended to full council for approval.

3. That the external appointments, to represent outside organisations and interests, are as follows:

be recommended to full council for approval.

Draft COMMITTEE TERMS OF REFERENCE

Regional Policy Committee

Membership

The Regional Policy Committee (the committee) shall be comprised of five (5) councillors, at least one of whom must be a member of the Environmental Management Committee.

The Regional Policy Committee shall review its membership at least annually and recommend to council any additional members and appointments to represent an outside organisations and interests that it considers necessary.

The committee has the power to establish working groups from time to time as its sees fit, and to co-opt a person as a member of a working group, with special regard for members to represent:

- Department of Conservation
- Cultural Interests
- Environmental Sustainability
- Economic Development
- Tangata Whenua

Quorum

The quorum for meetings of the committee shall be three members, being a majority of members (including vacancies).

Terms of Membership

Should any member appointed to represent an outside organisation or group be absent without prior leave from two consecutive meetings of the committee, that person's appointment is automatically terminated.

Should a vacancy occur in the membership of the committee, the Committee Secretary (or person fulfilling that role) shall report this to the next meeting of the council for determination as to whether or not the nominating organisation or group is to be invited to nominate a replacement.

Members of the committee, or working groups representing outside organisations or groups, are expected to regularly report back to their nominating organisation on matters discussed at committee or working group meetings. (They must have the authority to act on behalf of their organisation or group.)

Voting Rights

Members of the committee shall have voting rights.

Functions and powers

1. To oversee the preparation of the new Regional Policy Statement (RPS) for Northland in accordance with Schedule 1 of the Resource Management Act 1991 (RMA), including the resolution of appeals..
2. To review regional plans under the Resource Management Act 1991.
3. To formally release draft plans and plan changes, including variations, for public consultation without council approval.
4. To resolve any appeals in accordance the council decisions on the proposed plan, plan change or variation.
 - Resolution of appeals that are inconsistent with or depart from the council decision on the plan, plan change or variation must be referred to Council for decision.
5. To accept, adopt or reject private plan change applications under clause 25 of the First Schedule of the Resource Management Act 1991.
6. To manage the private plan change process.
7. To recommend to council positions and perspectives on proposed legislation (including amendments), National Policy Statements and National Environmental Standards for incorporation into council submissions.
8. To co-opt a person (or persons) as members of any working party established by the committee to assist with special projects.
9. To regularly report progress on its functions to the council.
10. Authority for the governance of all statutory functions, powers and duties within its terms of reference.
11. Authority to determine the processes to be used to develop and review the Regional Policy Statement and regional plans, and to resolve any appeals.
12. In consultation with the Environmental Management Committee, authority to review, prepare and draft changes to regional plans. (Where the committee does not accept a recommendation from the EMC or one of its sub-committees the committee will refer the matter back to the EMC for comment. This may be done in workshop format.)
13. Power under Clause 31(2) of the 7th Schedule of the Local Government Act 2002 to appoint a representative from each territorial authority in the region and a tangata whenua representative.
14. Authority to appoint subcommittees and working parties to deal with any matters of responsibility within the committee's Terms of Reference and areas of responsibility, and to make recommendations to the committee on such matters. (Any subcommittee shall not

have power to act other than by a resolution of the committee with specific limitations where there is urgency or special circumstance.)

The committee **does not have the powers of council to act** in the following instances:

1. As specified by Clause 32 (1) of Schedule 7 of the Local Government Act 2002:
 - a) make a rate;
 - b) make a bylaw;
 - c) borrow money, or purchase or dispose of assets, other than that in accordance with the current Long Term Plan or Annual Plan;
 - d) adopt a Long Term Plan, or Annual Plan, or Annual Report;
 - e) appoint a Chief Executive; or
 - f) adopt policies required to be adopted and consulted on under this Act in association with a Long Term Plan or developed for the purpose of the Local Governance Statement.
2. To notify plans, plan changes and variations.
3. Final approval of the RPS, plans and plan changes prepared under the Resource Management Act 1991.
4. To hear submissions on regional plans, regional plan changes and regional plan change variations (unless specifically delegated this function for a specific regional plan, regional plan change or regional plan change variation by council resolution).
5. To appoint a hearings panel, commissioners or councillors to hear submissions on regional plans, regional plan changes and regional plan change variations.

ISSUE: Regional Policy Statement – Appeals

ID: A595798

To: Regional Policy Committee, 2 December 2013

From: Ben Lee, Policy Specialist - Coastal

Date: 19 November 2013

Summary The purpose of this report is to brief the committee on the appeals made to the council's decisions on the proposed Regional Policy Statement for Northland (RPS) and outlines the process for resolving the appeals. It concludes with the recommendation that two councillors be delegated the ability to make decisions on councils behalf for resolving appeals on the RPS. Staff will be giving a presentation to this committee meeting which will include the history of the RPS's development and a brief overview of its content.

Report Type:	<input type="checkbox"/> Normal operations	<input type="checkbox"/> Information	<input checked="" type="checkbox"/> Decision
Purpose:	<input type="checkbox"/> Infrastructure	<input type="checkbox"/> Public service	<input type="checkbox"/> Regulatory function
	<input checked="" type="checkbox"/> Legislative function	<input type="checkbox"/> Annual\Long Term Plan	<input type="checkbox"/> Other
Significance:	<input type="checkbox"/> High	<input type="checkbox"/> Moderate	<input checked="" type="checkbox"/> Low

Background:

The Regional Policy Statement (RPS) is the umbrella resource management document for the region, providing direction to regional and district plans. The RPS sets out how regionally significant issues for resources such as land, water, soil, minerals, plants, animals and structures will be managed.

The preparation of the Proposed RPS started four years ago and was recognised with a national award from the Resource Management Law Association of New Zealand in September 2013 for excellence for its content and structure and the process for its development.

On 17 September 2013, council accepted the recommendations made by three independent commissioners, including the changes they recommended, as a result of considering submissions on the Proposed RPS. Their recommendations then became the council's own decisions on submissions. Submitters then had until mid-November 2013 to appeal any aspect(s) they are not happy with to the Environment Court.

Staff will be giving a presentation to this committee meeting which will include the history of the RPS's development and a brief overview of its content.

Appeals:

As at 19 November 2013, we have received copies of 15 appeals. There may be more as appellants can lodge late appeals (though whether they'll be accepted or not is at the court's discretion).

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Any person who has an interest greater than the general public can join the proceedings and has until 6 December 2013 to do so (s274, RMA). Importantly they cannot expand the scope of the appeals.

The appeals are broadly on the following subject areas:

- Genetic engineering (GE);
- Water management;
- Regionally significant infrastructure;
- Mapped areas and the provisions relating to them (outstanding natural land scapes, high and outstanding natural character and outstanding natural features);
- Occupation of coastal water space;
- Indigenous vegetation and habitats of indigenous fauna;
- Natural hazards.

Other points of interests:

- Only one substantive infrastructure provider appeal (New Zealand Transport Agency);
- Only seven appeals on site-specific mapping issues;
- No appeals on Section 8 (Tangata whenua);
- No appeals on Appendix 2 (Regional form guidelines) and Appendix 4 (Outstanding natural features);
- Only minor appeal points for Sections 5.1 (Regional form) , 5.2 (Effective and efficient infrastructure) and 5.4 (Renewable energy).

The appeals are as follows (provision references are to the council's decisions version of the Proposed RPS):

<i>Appellant</i>	<i>Summary of appeal</i>
Whangarei District Council	<ul style="list-style-type: none"> • Remove limitations in the precautionary approach to GE (Policy 6.1.2 and Method 6.1.5). • Minor amendments to water related method and natural hazard provisions (Method 4.3.5(2), Policy 5.1.2 and Policy 7.1.4). • Expand Appendix 3 (regionally significant infrastructure). • Amend provisions for good planning practice (Policy 6.1.1 and Method 6.1.4).
Glencally Trust	Amend various provisions relating to mapping, protecting natural character, landscapes, and indigenous ecosystems that affect appellant's property at Opuā. (Relates to Issue 2.8; Objectives 3.4, 3.11 and 3.14; Policies 4.4.1, 4.5.1, 4.5.2, 4.6.1, 4.6.2, 4.7.3; and the policies in Chapters 5 and 6).
Cornille P	Reinstate high natural character classification adjacent to Ocean Beach, Whangarei (Maps 14 and 19).
Mace C	Remove high natural character classification from appellant's property, Paroa Bay, Bay of Islands (Map 156)
Federated Farmers	<ul style="list-style-type: none"> • Increase focus on economic wellbeing (Issue 2.3). • Better recognise role of production land in the make-up of natural character and landscape (Issue 2.8, Objective 3.14, Policies 4.6.1 and 4.6.2, Method 4.4.3(3)(d)). • Decrease the requirements for stock exclusion (Methods

Appellant	Summary of appeal
	<p>4.2.2(1)(a) and 4.8.1(g).</p> <ul style="list-style-type: none"> • Decrease requirements for creating esplanade reserves and strips for water quality purposes (Method 4.2.2(2)(a)). • Remove all references to GE (Issue 2.6(g), Policy 6.1.2 and Method 6.1.5). • Amend maps to exclude areas of plantation forest. • Amend maps to accurately reflect the text.
Ironwood Trustee Ltd	Remove high natural character and outstanding landscape classifications from properties at Jacks Bay, Bay of Islands (Map 156).
Morrison P and G	Remove outstanding and high natural character classification from appellant's property on the edge of Rangaunu Harbour (Maps 196 and 204).
Westpac Mussels Ltd	<ul style="list-style-type: none"> • Remove the outstanding natural landscape classification from Stephenson Island, Whangaroa (Map 209). • Amend policies to recognise that development in or near outstanding natural features, high and outstanding natural character areas and outstanding landscapes may be appropriate (Policy 4.6.1) • Amend provisions in relating to the tests and thresholds for the occupation of space in the coastal marine area (Policies 4.8.1 and 4.8.4, Method 4.8.6(1)(c))
Director General of Conservation	<ul style="list-style-type: none"> • Amend Appendix 5 (criteria for significant indigenous vegetation and habitats of indigenous fauna). • Strengthen policy to protect vulnerable ecosystems and habitats (whether they are significant or not) (Policy 4.5.1(2)). • Amend natural character methodology and amend provisions to recognise that the natural character mapping is not complete (Appendix 1, Policy 4.5.1(1), and Method 4.5.4) • Amend provisions to recognise that the coastal environment may be greater than that mapped, and will be determined on a case by case basis (maps and Policy 4.5.2). • Remove reference to "integrity" in relation to natural character, natural features and natural landscapes (Objective 3.4 and Policy 4.6.1). • Remove exceptions from policies that require the avoidance of adverse effects on outstanding natural features, natural character and natural landscapes (Policy 4.6.1). • Add "prohibited activity" in addition to non-complying as an option for district councils when classifying subdivision in high flood and coastal hazard risk areas (Method 7.1.7(3)). • Increase the minimum floor levels in the coastal environment by 0.3m (Method 7.1.7(5)). • Minor change to policy on climate change and development (Policy 7.1.6). • Expand application of policy recognising role of natural defences for natural hazards (Policy 7.2.1).

<i>Appellant</i>	<i>Summary of appeal</i>
Environmental Defence Society	<ul style="list-style-type: none"> • Amendments to objectives and policies to recognise amenity values (Objectives 3.14 and 3.15, Policy 4.6.1) • Add provisions for establishing interim/default freshwater quantity and quality limits to apply until catchment-specific limits are determined (Policy 4.1.1 and methods 4.1.2 and 4.2.2) • Numerous amendments to Method 4.2.2 (regulatory methods for region-wide water quality management). • Clarify that 'avoiding over allocation' for water quality and quantity includes phasing out (Methods 4.1.2, 4.3.2 and 4.3.5) • Reinstate methods committing regional council to review water consents and permits where reduction in allocation is required, require resource consent applicants to demonstrate that water will be used efficiently, and require all consented water takes to have meters (Method 4.3.5). • Reinstate notified version of Policy 4.4.1 (Maintaining and protecting significant ecological areas and habitats). • Remove ability for district council's to amend mapped areas (Policy 4.5.1 and Method 4.5.4). • Remove ability for site specific expert assessment of mapped areas (Policy 4.5.2). • Remove exceptions to avoiding adverse effects on outstanding natural character, outstanding natural landscapes and outstanding natural features (Policy 4.6.1) • Reinstate requirement (instead of encouragement) for a net gain in environmental / public benefit for occupation of the coastal marine area (Policy 4.8.4). • Add clause to aquaculture policy to recognise that it can cause adverse effects (Policy 4.8.5). • Minor amendment to explanation for Method 5.4.3 (references to activity status for renewable energy generation proposals).
Landowners Coalition	<p>Seeks that council initiate a variation to the proposed RPS to incorporate the methodologies used for the mapping. (The proposed RPS includes the criteria used for mapping in Appendix 1 but the appellant believes the criteria / methodologies were not available for public scrutiny and they have numerous concerns with it.)</p>
Matthewson A & J	<p>Remove high natural character notation from appellant's property at Doves Bay, Kerikeri (Map 177).</p>
Crawford J	<ul style="list-style-type: none"> • Seeks that council initiate a variation to the proposed RPS to incorporate the methodologies used for the mapping. • Remove the Outstanding Natural Landscape notation from the property owned by D and B Sturge, Puketi Road, Okaihau (Map 153).
Kaipara District Council	<ul style="list-style-type: none"> • Exclude commercial and industrial buildings from the requirement to comply with Policy 7.1.2(c) (minimum freeboard), or, amend Policy 7.1.2 to clearly state that it

Appellant	Summary of appeal
	only applies to new subdivision, land use, and built development in mapped flood hazard areas.
New Zealand Transport Agency	<ul style="list-style-type: none"> • Increase the emphasis on consolidated development (Clause 1.5(d), Objective 3.5 and Policy 5.1.1). • Remove the coastal environment maps and all references to them (Issue 2.8, Objective 3.14, Policy 4.4.1(1), Policy 4.5.1, Policy 4.5.4(2), Policy 4.6.1). • Remove the council's functions to assess and determine natural hazard risks of the appellant's infrastructure. The appellant is more appropriately placed to make investment decisions in respect to natural hazard risk. (Issue 2.7, Objective 3.13, Policy 7.1.2(e) and Policy 7.1.3). • Clarify that an overall improvement in water quality is a broad approach and not a case-by-case requirement (Objective 3.2, Method 4.1.2(3), and Policy 4.2.1) • Delete Policy 5.3.3 as the appellant believes it does not support regionally significant infrastructure as intended, and actually creates more constraints to it. • Greater recognition of the State Highway system in indigenous ecosystems provisions (Objective 3.4 and Policy 4.4.1(2)) • Add to the guiding principles (Section 1.3) a principle to recognise the importance of key infrastructure lifelines.

Resolving appeals - process

It's likely that the court will direct court assisted mediation. This is where the parties meet together with a court appointed mediator to see if a negotiated agreement can be made. While not essential, the court strongly encourages participants to have the mandate to make decisions in those meetings. February 2014 is likely to be the earliest for the first of these meetings.

Council can resolve appeal matters through informal negotiations. The Court will only sign off on an appeal matter if all the relevant parties are in agreement This avenue is often used for minor matters and / or when there are only a small number of parties.

Any matter not resolved by mediation or negotiation will then go to court. Councillors are not generally involved in court proceedings.

Resolving appeals – council representation

Council needs to decide how it will represent its position through the appeal negotiations and mediation. This decision has been delegated to the Regional Policy Committee (the committee). Typically the role has been delegated to two councillors, who are able to attend meetings and have the mandate to make decisions and commitments on behalf of council at those meetings. Two councillors is preferable to one to ensure the decisions are consistent with the council position and it means that if one cannot make a meeting, then at least the other will be able to attend. It is also administratively efficient to have a small number of councillors, for example to ensure convenient meeting times and getting urgent signoff on court documents. Ideally between them these councillors would have some knowledge of the new RPS

(process and content), 'making good decisions' accreditation, and experience in the RMA plan development process.

It's important that the councillors are not conflicted by any previous involvement in the development of the RPS and any public statements on how the RPS should look or what it should contain. Assuming the delegation is to two councillors, the recommendation is that should either of the councillors have a conflict, they will step aside and leave it to the other councillor to represent the council alone. It would therefore be advisable that any potential conflicts be declared at the outset to avoid both councillors being conflicted on the same issue.

The councillors chosen will be supported by staff, legal and any specialist advice required on the matters under appeal.

The delegated councillors can only make decisions that are consistent with and don't depart from the council decisions. This limitation is set out in the terms of reference for the committee. Any decision to be inconsistent with or depart from the council decision can only be made by council. As the timeframes for providing responses to the court are often tight, it is recommended that the delegated councillors refer any decisions that are inconsistent with or depart from the council decisions directly to council. The alternative would be to take the recommendation to the committee and then the committee recommends to council. However this could mean two or more months before a decision is made.

Legal Compliance & Significance Assessment:

The activities detailed in this report are part of the council's day to day operations and as such are provided for in the council's 2012-2022 Long Term Plan, and are in accordance with the council's decision making process and sections 76-82 of the Local Government Act 2002.

Recommendation(s):

1. That the report Regional Policy Statement – Appeals by Ben Lee, Policy Specialist - Coastal and dated 19 November 2013, be received.
 2. That councillors _____ and _____ be delegated the ability to make decisions on councils behalf for resolving appeals on the proposed Regional Policy Statement for Northland, where the decisions are consistent with and do not depart from the council decisions on the proposed Regional Policy Statement for Northland.
 3. That where councillors _____ and _____ consider that the it would be more appropriate to make a decision for resolving appeals on the proposed Regional Policy Statement for Northland that is inconsistent with or departs from the council's decisions the proposed Regional Policy Statement for Northland, a recommendation is to be made by councillors _____ and _____ directly to council.
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