

NORTHLAND REGIONAL COUNCIL

Agenda

For the extraordinary meeting to be held in the Council Chamber,
36 Water Street, Whangārei, on Wednesday 30 August 2017,
commencing at 9.30 am

Recommendations contained in the council agenda are NOT council decisions. Please refer to council minutes for resolutions.

OPEN MEETING

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TITLE: Approving the Proposed Regional Plan for Notification
ID: A971950
To: Council Meeting, 30 August 2017
From: Ben Lee, Policy Development Manager
Date: 23 August 2017

Executive summary

This item seeks council approval to:

- notify the *Proposed Regional Plan for Northland* for submissions;
- release the *Section 32 Report – Proposed Regional Plan for Northland* (the background report to the Proposed Regional Plan council is required to prepare);
- adopt the *Plan to monitor and enforce compliance - Proposed Regional Plan for Northland* (a non-statutory document which sets out the process how the regional council intends to proactively monitor and enforce compliance with the permitted activity rules); and
- approve the hearings panel to hear submissions and make recommendations on changes to the Proposed Regional Plan for Northland.

Council has been working on the preparation of the Proposed Regional Plan since 2014.

Recommendations

1. That the report 'Approving the Proposed Regional Plan for Notification' by Ben Lee, Policy Development Manager and dated 23 August 2017, be received.
2. That council approve the public notification of the 'Proposed Regional Plan for Northland' (included as **Attachment One** of the report 'Approving the Proposed Regional Plan for Notification' by Ben Lee, Policy Development Manager, and dated 9 August 2017) in accordance with Clause 5, Schedule 1, Resource Management Act 1991.
3. That the public notification of the 'Proposed Regional Plan for Northland' be on or before 15 September 2017.
4. That the submission period for the 'Proposed Regional Plan for Northland' be 50 working days.
5. That council adopts the report 'Section 32 Report – Proposed Regional Plan for Northland' (included as **Attachment Two** of the report 'Approving the Proposed Regional Plan for Notification' by Ben Lee, Policy Development Manager, and dated 9 August 2017) as the evaluation report required by Section 32 and Clause 5, Schedule 1 of the Resource Management Act 1991 to accompany the notification of the Proposed Regional Plan.
6. That council adopts the 'Plan to monitor and enforce compliance - Proposed Regional Plan for Northland' (included as **Attachment Three** of the report 'Approving the

- Proposed Regional Plan for Notification’ by Ben Lee, Policy Development Manager, and dated 9 August 2017);
7. That council delegates to the Group Manager – Regulatory Services the authority to make any necessary minor formatting, typographical, and administrative changes to the ‘Proposed Regional Plan for Northland’, ‘Section 32 Report - Proposed Regional Plan for Northland’, and ‘Plan to monitor and enforce compliance - Proposed Regional Plan for Northland’.
 8. That council delegate authority to a hearing panel of three members made up of one councillor and two independent commissioners, under Section 34A of the Resource Management Act 1991, to conduct the hearing into submissions on the ‘Proposed Regional Plan for Northland’ and make recommendations to council on the ‘Proposed Regional Plan for Northland’ in response to submissions.
 9. That council approve the appointment of Councillor Yeoman to the three-member hearing panel for the Proposed Regional Plan for Northland.
 10. That council approve the appointment of Rob van Voorthuysen for the position of independent commissioner and chair of the three-member hearing panel for the ‘Proposed Regional Plan for Northland’.

Background:

Preparing the Proposed Regional Plan

Council has been preparing the new regional plan since 2014. It started with a review of the current regional plans, which included a series of workshops hosted by council attended by over 100 people from a wide range of interests.

The regional council's Regional Policy Committee was delegated responsibility to develop the Draft Regional Plan. The Regional Policy Committee considered material and recommendations from staff at over 25 workshops spanning from February 2015 to June 2016.

The Draft Regional Plan was released for public feedback on 8 August 2016. Nearly 290 people and organisations provided feedback.

The next stage comprised the development of the Proposed Regional Plan. This was overseen by a working group of all councillors and three members of the regional council's Te Tai Tokerau Māori Advisory Committee Working Party¹ (TTMAC). It involved a series of eight workshops from February to June 2017, where recommendations from staff were considered, mainly in response to public feedback on the Draft Regional Plan.

There are some key provisions of the Proposed Regional Plan which the TTMAC members did not support and wanted to have highlighted in this item. They are:

- the non-inclusion of provisions to regulate genetically modified organisms; and
- the inclusion of the rule that permits the discharge of road dust.

¹ The Te Tai Tokerau Māori Advisory Committee Working Party members were involved because of their expertise and understanding of Māori values. Their views did not necessarily reflect the collective or individual views of iwi, hapu, whanau or individual Māori landowners.

The structure and approach of the Proposed Regional Plan reflects the council's desire to keep it simple, streamlined and designed with the user in mind. Key features of the structure and approach are:

- The plan is a regulatory document only (contains no non-regulatory actions).
- Rules at the front of the document.
- Only one objective.
- No explanations for the rules and policies (all contained in the Section 32 report).
- Inclusion of catchment specific provisions.

The result is a less than 240-page plan – compare that with the operative regional plans which total over 1000 pages.

Notification

The goal is to notify on 6 September 2017, but the recommendation is that the notification date be sometime on or before 15 September 2017. This would provide contingency should any last-minute issues arise.

The recommendation is the submission period run for 50 working days (40 working days is the legal minimum).

Hearings Panel

At their workshops, councillors and the TTMAC members considered the potential make-up of the hearing panel to:

- hear from submitters wishing to be heard; and
- recommend to council changes to the Proposed Regional Plan made in response to submissions.

Having considered various options, councillors supported the appointment of a three-member hearing panel made up of:

- One councillor;
- One independent commissioner with expertise in Māori values; and
- One independent commissioner with expertise in freshwater management.

TTMAC members supported the appointment of the three members as outlined, but also advocated for another independent commissioner with expertise in Māori values.

Councillors and the TTMAC members considered candidates for the independent commissioner with expertise in freshwater management. They considered the candidates against a set of criteria and agreed with the appointment of Rob van Voorthuysen for the position of independent commissioner with expertise in freshwater management and chair. He is recommended because he:

- Meets all the criteria.
- Is a highly experienced commissioner on regional plan hearings.
- Has considerable recent experience in RMA freshwater management.
- Comes highly recommended by other regional councils and the council's Consents Team experiences with him have been excellent.
- Is a very experienced chair.

Councillor Yeoman has indicated her interest in being the councillor member on the hearing panel and has recently completed and passed the 'Making Good decisions' accreditation. Hearing panel members must have this accreditation. Councillor Yeoman has also chaired the councillor and TTMAC working group workshops for preparing the Proposed Regional Plan.

We are not yet able to identify the independent commissioner with expertise in Māori values in the time available prior to the completion of this paper. Criteria have been developed in consultation with TTMAC and the Iwi Local Government Chief Executive Forum. It is anticipated a recommendation will be put to council at its September or October 2017 meeting.

Considerations:

1. Options

Proposed Regional Plan

Council is legally required to notify the Proposed Regional Plan (Section 79, Resource Management Act 1991).

The evaluation of the options for the content of the Proposed Regional Plan is included in the Section 32 Report for the Proposed Regional Plan.

Hearing Panel

The number of members on the panel should match the scale of the Plan workload and its complexity. A larger membership may bring a broader range of expertise to the table and allow for a wider range (and balancing) of different opinions, but it may take longer to achieve consensus or majority decision. It may also be logistically more difficult to bring together a panel and write up decisions with many members. Some councils use an odd number of commissioners in hearings to avoid 'stalemate' situations. With an even number of commissioners, the chairman is usually given the casting vote.

Another factor is cost. One independent commissioner is likely to cost at least \$90,000². Also, the larger the hearing panel the greater the costs for accommodation, etc.

The following table outlines various options of the makeup of the hearings panel and assesses these against a set of criteria. Option 5 (1 councillor, 1 independent commissioner and 1 Māori commissioner) is the preferred option because it is the best balance of minimising costs, representing Māori and community values, technical expertise and independent decision making.

² Assuming 450 hours at \$200 per hour.

Options for the makeup of the hearings panel

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
	2 Councillors 2 Independent commissioners 1 Māori commissioner	2 Councillors 3 Independent commissioners	1 Councillor 2 Independent commissioners 1 Māori commissioner	1 Councillor 3 Independent commissioners	1 Councillor 1 Independent commissioner 1 Māori commissioner	1 Councillor 2 Independent commissioners
Criteria (scored out of 5)						
Community values Representation of community values may be (seen to be) increased by the number of elected councillors appointed to the panel and their proportion on the panel. Councillors also provide continuity – they know the history.	3	3	2	2	3	3
Cost Based on an independent commissioner costing about \$90k.	2 (\$270k)	2 (\$270k)	2 (\$270k)	2 (\$270k)	3 (\$180k)	3 (\$180k)
Māori values Tangata whenua are involved in decision making and their interests represented. Score relates to presence or not of Māori commissioner and relative proportion to the hearings panel.	2	0	3	0	4	0
Technically robust The more independent commissioners, the greater the likelihood decisions lawful and well supported by evidence, skills and experience. It is assumed that a Māori commissioner will not have the same level of technical regional planning expertise as an independent commissioner.	3	4	3	4	1	2
Timely process and availability Larger membership increases hearings and decision writings logistics.	2	2	3	3	4	4
Unweighted total	12	11	13	11	15	12

2. Significance and engagement

In relation to section 79 of the Local Government Act 2002, this decision is of low significance when assessed against council's significance and engagement policy because it has previously been consulted on and provided for in council's 2015 – 2025 Long Term Plan (refer 2.4). This does not mean that this matter is not of significance to tangata whenua and/or individual communities, but that council can make decisions relating to this matter without undertaking further consultation or engagement.

3. Policy and legislative compliance

The preparation and notification of the Proposed Regional Plan, and the appointment of the hearings panel is subject to various sections of the Resource Management Act 1991 (RMA), including sections 30, 32, 34A, 39A, 39B, 63-70, 79 and Schedule 1. The decisions being recommended are consistent with the relevant sections of the RMA. Council has no choice but to notify a proposed plan.

Further considerations

4. Community views

The Proposed Regional Plan will have a wide range of impacts on the community.

The community has had several opportunities to share its views on the content of the Proposed Regional Plan. The main opportunity was the release of the Draft Regional Plan for public feedback. There are a wide range of community views. These have been summarised and considered in the Section 32 Report for the Proposed Regional Plan.

The community has not been asked its views on the appointment of the hearing panel (and nor is council legally required to do).

5. Māori impact statement

The Proposed Regional Plan will have a range of impacts on Māori and their taonga.

Māori have had several opportunities to share their views on the content of the Proposed Regional Plan and have been involved in the decision making of the content. These have included:

- The release of the Draft Regional Plan for public feedback.
- Various public hui where Māori provided feedback.
- Workshops with TTMAC seeking feedback on the Draft Regional Plan.
- Seeking advice from TTMAC on how to engage with Māori.
- Three TTMAC representatives involved in the council workshops on the preparation of the Proposed Regional Plan.

The views of Māori have been summarised and considered in the Section 32 Report for the Proposed Regional Plan.

TTMAC and the Iwi Local Government Chief Executive Forum was asked for advice on the appointment of an independent commissioner, with expertise on Māori values, on the hearing panel for the Proposed Regional Plan. TTMAC advocated for another independent commissioner with expertise in Maori values.

6. Financial implications

There are significant costs associated with notifying the Proposed Regional Plan. These costs have been accounted for in the Long Term Plan, and as discussed, council has no choice but to notify the plan

7. Implementation issues

The Proposed Regional Plan will have a significant implementation impact on many parts of the organisation – particularly the consents and compliance monitoring teams.

Attachments:

These can be viewed at www.nrc.govt.nz/augustextraordinary

- **Attachment One:** *Proposed Regional Plan for Northland*
- **Attachment Two:** *Section 32 Report - Proposed Regional Plan for Northland*
- **Attachment Three:** *Plan to monitor and enforce compliance - Proposed Regional Plan for Northland*

Authorised by Group Manager:

Name: Colin Dall
Title: Group Manager – Regulatory Services
Date: 23 August 2017

TITLE: Adoption of Catchment Management Plans

ID: A972957

To: Council Meeting, 30 August 2017

From: Justin Murfitt, Resource Management Planning and Policy Manager

Date: 7 August 2017

Executive summary

The purpose of this report is to seek council adoption of five catchment management plans for the Doubtless Bay, Waitangi, Mangere, Whangārei Harbour and Poutō catchments. These catchment management plans were developed using a collaborative group process and represent a great deal of time and effort by the catchment group members, who are to be congratulated for their ongoing commitment to a challenging process.

The adoption of these five catchment plans also represents a key stage of council's programme to implement the National Policy Statement for Freshwater Management 2014. This report concludes with the recommendation that council adopt the catchment management plans developed for the Doubtless Bay, Waitangi, Mangere, Whangārei Harbour and Poutō catchments.

Recommendations

1. That the report 'Adoption of Catchment Management Plans' by Justin Murfitt, Resource Management Planning and Policy Manager, dated 7 August 2017, be received.
 2. That council adopt the catchment management plans developed for the Doubtless Bay, Waitangi, Mangere, Whangārei Harbour and Poutō catchments, subject to minor, non-material amendments for formatting or layout purposes.
 3. That the adopted catchment management plans be made available on council's website.
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Background

Following the 2012–2022 Long Term Plan, council established Waiora Northland Water as a means to improve the management of Northland's freshwater resources. This programme included establishment of collaborative planning processes in five catchments being; Doubtless Bay, Waitangi, Mangere, Whangārei Harbour and Poutō catchments. Undertaking collaborative planning processes in these five catchments was also identified as a key step in council's programme to implement the National Policy Statement for Freshwater Management 2014.

The catchment groups were made up of local catchment representatives with interests in freshwater and coastal management and were tasked with:

- identifying uses/values for water/waterbodies in the catchment;

- establishing objectives for the catchment; and
- identifying a range of methods to achieve the objectives sought.

The uses/values, objectives and regulatory and non-regulatory methods have been set out in catchment management plans for each of the five catchments. The catchment plans are non-statutory documents and regulatory measures recommended in the catchment plans only have effect if adopted into statutory documents by local authorities (such as council's new regional plan) or other agencies with regulatory powers. All five catchment plans have recommended catchment specific rules be included in the new regional plan. These are recommendations only and the inclusion and/or form of catchment specific rules in the Proposed Regional Plan is at the discretion of council.

The catchment plans also include a range of recommended non-regulatory measures that can be progressed by action 'on the ground' (such as removal of barriers to fish passage, riparian planting and/or fencing). Many of these can be progressed by the catchment groups themselves, but in some cases they may rely on local government or other agency funding. These measures are to be set out in a prioritised implementation plan developed by the groups with assistance from council's Land Management staff. Any council funding decisions would be subject to council financial and operational planning processes (including Annual/Long Term Plans).

Draft catchment plans were subject to public consultation in conjunction with the draft regional plan over August–September 2016, which included advertisements, letters to affected parties, an online and written submission process, and public drop in days in each of the catchments. The feedback received has since been used by the catchment groups to revise the catchment plans. The finalised catchment plans for council consideration can be viewed at www.nrc.govt.nz/augustextraordinary.

The consultation undertaken on the catchment plans meets the principles of section 82 and requirements of section 82A of the Local Government Act 2002, which requires that those affected have a reasonable opportunity to understand the matter and present their views to council. Council can therefore adopt the catchment plans with confidence that there has been adequate opportunity for the community of interest to comment. Further, if the recommended catchment specific rules are accepted by council and included in the new regional plan, there will be another opportunity for public participation through the submissions, further submissions, hearings, and appeal processes provided by Schedule 1 of the Resource Management Act 1991.

The catchment management plans are non-statutory documents (i.e. not a requirement of legislation) as such there is no legal requirement for notification following adoption. The final version of the catchment plans would, however, be available on the council website and the catchment groups advised at the next meeting.

Considerations:

Options

No.	Option	Advantages	Disadvantages
1	Council adopts the catchment management plans	<ul style="list-style-type: none"> • The time and effort of the catchment groups is formally recognised by council. • The recommendations of the catchment plans have more 'weight' if adopted (i.e. there is a better chance of funding for implementation measures by a range of agencies and catchment plan objectives can be recognised in decision making). 	None
2	Council does not adopt the catchment management plans	None	<ul style="list-style-type: none"> • The time and effort of the catchment groups is not formally recognised by council. • The recommendations of the catchment plans would have less 'weight'.

The staff recommend Option 1.

1. Significance and engagement

In relation to section 79 of the Local Government Act 2002, this decision is considered to be of low significance when assessed against council's significance and engagement policy because it has previously been consulted on and provided for in council's Long Term Plan and/or is part of council's day to day activities. This does not mean that this matter is not of significance to tangata whenua and/or individual communities, but that council is able to make decisions relating to this matter without undertaking further consultation or engagement.

2. Policy and legislative compliance

The adoption of the catchment management plans is consistent with council's programme to implement the National Policy Statement for Freshwater Management 2014 (as notified in 2015). There are no other policy or legislative requirements specific to this matter.

Further considerations

3. Community views

Community views on the matter have been canvassed during consultation on the draft catchment plans in August–September 2016. There was typically a high degree of support for non-regulatory measures by submitters, but opinions were more divided in relation to regulatory measures (i.e. recommended catchment specific rules). These views were considered in subsequent revision of the catchment plans by the catchment groups. Further opportunity for community views on regulatory provisions is also available through the Proposed Regional Plan process. Being non-regulatory documents the catchment plans do not have direct negative impacts on communities and potential positive impacts could arise through implementation initiatives. There is also some expectation from the communities in the respective catchments that these plans will be finalised and adopted by council.

4. Māori impact statement

Each of the catchment groups included Māori representatives who participated in the development of the catchment plans. Feedback by Māori on the collaborative catchment planning process has been mixed, with some expressing disappointment over the extent to which Māori interests have been expressed in catchment plans. However, there are no direct negative impacts on Māori as a result of council adopting the catchment management plans and potential positive effects if implementation addresses cultural concerns/objectives identified.

5. Financial implications

The adoption of the five catchment management plans does not in itself commit council to funding or other resourcing obligations as any such decisions (e.g. financial or additional staff resources to support implementation measures) would be subject to council financial and operational planning processes (including Annual/Long Term Plans).

6. Implementation issues

The catchment management plans include a range of implementation measures, however, these do not necessarily rely solely on council resources and many can be progressed by the catchment groups themselves or through other agencies. The catchment groups are in the process of developing prioritised implementation plans that will set out roles, responsibilities, timing and resourcing required. Council commitment to resourcing can be considered through financial and operational planning processes such as Annual/Long Term Plans.

Attachments

These can viewed at www.nrc.govt.nz/augustextraordinary

- Attachment 1: Doubtless Bay Catchment Management Plan
- Attachment 2: Waitangi Catchment Management Plan
- Attachment 3: Mangere Catchment Management Plan
- Attachment 4: Whangārei Harbour Catchment Management Plan
- Attachment 5: Poutō Catchment Management Plan

Authorised by Group Manager:

Name: Colin Dall
Title: Group Manager – Regulatory Services
Date: 8 August 2017