

Planning & Regulatory Working Party
Wednesday 26 August 2020 at 9.30am

AGENDA

Planning & Regulatory Working Party Agenda

Meeting to be held via Zoom video and teleconferencing
on Wednesday 26 August 2020, commencing at 9.30am

Please note: working parties and working groups carry NO formal decision-making delegations from council. The purpose of the working party/group is to carry out preparatory work and discussions prior to taking matters to the full council for formal consideration and decision-making. Working party/group meetings are open to the public to attend (unless there are specific grounds under LGOIMA for the public to be excluded).

MEMBERSHIP OF THE PLANNING AND REGULATORY WORKING PARTY

Cr Joce Yeoman (Chair)

Cr Amy Macdonald	Cr Colin Kitchen	Cr Justin Blaikie
Cr Penny Smart (ex officio)	Pita Tipene	Juliane Chetham
Rowan Tautari	Mira Norris	

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KARAKIA WHAKAMUTUNGA

TITLE: Receipt of Meeting Notes
ID: A1348577
From: Rachael King, Planning and Policy/Māori Relationships Administrator

Executive Summary | Whakarāpopototanga

The purpose of this report is to present the Record of Actions of the last meeting held on 24 June 2020 for review by the Working Party.

Attachments | Ngā tapirihanga

Attachment 1: Record of Actions - 24 June 2020 [↓](#) 

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 13 August 2020

Planning & Regulatory Working Party
24 June 2020

Planning & Regulatory Working Party Record of Actions

Meeting held in the Committee Room, 36 Water Street, Whangārei
and via Zoom video and teleconferencing
on Wednesday 24 June 2020, commencing at 9.30am

Present:	Cr Joce Yeoman	(Chair)
	Cr Justin Blaikie	
	Cr Amy Macdonald	
	Cr Colin Kitchen	
	Cr Penny Smart	(ex officio)
	Mira Norris	Te Parawhau Hapū Authority Charitable Trust
	Rowan Tautari	Te Whakapiko Hapū
	Juliane Chetham	Patuharakeke Te Iwi Trust Board
In Attendance:	Full Meeting	
	Ben Lee	Strategy, Policy & Planning Manager
	Michael Day	Natural Resources Policy Manager
	Rachael King	Planning & Policy Administrator (minutes)
	Colin Dall	GM - Regulatory Services
	Tess Dacre	Compliance Monitoring Manager
	Ali McHugh	Water & Waste Monitoring Manager
	Sheila Taylor	Kaiārahi Kaupapa Māori
	Chevon Horsford	Kaiawhina Kaupapa Māori
	Part Meeting	
	Jonathan Gibbard	GM - Strategy, Governance & Engagement
	Michael Payne	Policy Specialist

The meeting commenced at 9.36am

1.0 APOLOGIES | NGĀ WHAKAPAHĀ

Pita Tipene, Malcolm Nicolson, Jason Donaghy, Juliane Chetham (lateness)

2.0 DECLARATIONS OF CONFLICTS OF INTEREST | NGĀ WHAKAPUAKANGA

It was advised that members should make any declarations item-by-item as the meeting progressed.

3.0 REPORTS | NGĀ RIPOATA

3.1 Receipt of Meeting Notes

- Taken as read
- Draft compliance monitoring and enforcement strategy – no feedback received from last meeting – any comments to be forwarded through to Colin

Planning & Regulatory Working Party
24 June 2020

3.2 Regulatory Services Update

Presented by: Colin Dall – GM, Regulatory Services

- Report taken as read

3.3 NRC Forestry Monitoring Programmes

Presented by: Tess Dacre – Compliance Monitoring Manager

- Report taken as read
- Justin provided background and overview to the report
- NRC have invested and developed our own dataset to record the erodibility datasets of Northland soils – these differ to national information available, in terms of showing Northland soils are more erodible
- Soil erosion is only one of a number of factors considered when determining whether an activity is permitted and whether a site visit will be made
- If MPI data are used for assessment of risk, it's not a true reflection
- The suggestion was made that a submission be made to MPI regarding using NRC maps
- Are the current NES settings proving to be effective relating to forestry in Northland, which is likely to continue to grow as a land use
- An opportune time to look at it and see whether we need to address a plan change moving forward
- Request for additional information as to what made afforestation activities non-compliant – Ali advised that it has to do with the way in which it is reported, and recording changes are imminent
 - Afforestation only applies to new areas – if replanting areas then NRC do not need to be notified
 - Forestry sector guidelines are available and utilised, however, need to be brought up to date

Agreed Actions:

- Ben to meet with Colin and Tess to discuss the matter further and report back to next working party
- Refer request for information on costings on data-loggers to the Land & Water Working Party
- Report back to TTMAC on Compliance Monitoring with regard to Forestry – provide an understanding of what council does in that space and the current situation

10.06am - Jonathan Gibbard joined the meeting

3.4 Planning & Policy Work Programme

Presented by: Ben Lee - Strategy, Planning & Policy Manager

- Report taken as read

Secretarial Note: The order of the agenda items was rearranged to allow for other commitments by attendees

Planning & Regulatory Working Party
24 June 2020

10.11am - Michael Payne joined the meeting

3.6 Update on Water Quality Plan Change

Presented by: Ben Lee - Strategy, Planning & Policy Manager

- Have been working with MTAG to come up with an approach for engaging with tangata whenua – being tabled at next TTMAC meeting
- Tangata whenua advisory group – key group for receiving advice
- Two consultants have been employed to provide modelling of the current state of Northland water quality
- NIWA have completed their modelling – Land & Water Science are due to return their outputs in July
- Have also engaged NIWA to provide modelling of proposed scenarios
- Outlined proposed timeline around the engagement and preparation of the plan change
- Amy – reminder that outputs of modelling are not the only things worthwhile – look holistically at all benefits and articulate them as much as possible wherever we can
- Stakeholder groups – no indication of who these may be at this stage
- Has there been any thought of ground truthing to provide more information around *e.coli* data etc. – once information from Land & Water Science is received, it is anticipated that it will fill in some of the gaps in the NIWA modelling
- Will be looking at other RC, however, targets, limits etc. will be Northland specific

3.5 Proposed Amendments to National Environmental Standards for Air Quality Submission

Presented by: Michael Payne - Policy Specialist

- Joce - minor feedback already provided by email to Michael
- Is the submission able to speak to spray drift – not something the NES covers, mostly traffic and dust
- The monitoring we undertake at the refinery will not be affected

Agreed Action:

- Any comments / amendments through to Michael no later than midday Tuesday next week

10.26am - Juliane Chetham joined the meeting

3.7 Regional Plan Appeals

Presented by: Michael Day – Natural Resources Policy Manager

- Approx 75% of all appeal points agreed to have been agreed to date
- Fourteen signed orders have been received – these are now up on the council website, together with an updated / amended copy of the Annual Plan incorporating the changes
- Two hearing dates have been locked in: 20 July (fumigation) for two days and 10 August (mangroves) for a week
- No-take marine protection provisions has been scheduled for two days in early August
- Further updates will be advised

The meeting closed at 10.33am

TITLE: Planning & Policy Work Programme

ID: A1348555

From: Michael Day, Natural Resources Policy Manager

Executive Summary | Whakarāpopototanga

The following table sets out the work programme for the Planning and Policy team¹ for the next three years. It only includes work relevant to the Planning and Regulatory Working Party's terms of reference.

Activity	Detail	When
Coastal occupation charging	Staff will socialise the concept of coastal occupation charging with TTMAC at their next formal workshop, which will be an opportunity for TTMAC members to understand what coastal occupation charges are and to ask questions etc.	9 September TTMAC workshop
Marine protected areas	Discussions on Mimiwhangata proposal with Ngātiwai Trust Board are on hold. Working through appeals on Proposed Regional Plan seeking additional fishing controls	Marine Protection appeals mediation occurred on 6 August – see separate PRP Appeals paper
Wetland mapping	Mapping project to clearly define wetlands and provide certainty about where wetland rules apply. MFE put out an RFP for piloting a wetland mapping methodology (6-month project). MFE have asked NRC to supply Northland data so its looking promising that Northland will be the pilot region.	MFE are in the process of awarding the contract- expected late August.
Freshwater quality management plan change	A plan change to set freshwater quality objectives, limits and regulation to ensure the objectives are achieved and limits are met. Required to give effect to the Freshwater NPS	Looking to notify late 2021 or early 2022.
Catchment-specific water quantity limits	Possible plan change(s). Catchment-specific limits to replace regional 'default' limits for priority water bodies. Contingent on outcome of technical work in priority catchments.	TBC (if at all)
Proposed Regional Plan appeals	Refer separate item.	Refer separate item.
District plan changes and consents	The planning team provide feedback and make submissions on changes to district plans and major consent applications.	Ongoing

¹ Only includes activities within the Planning and Regulatory Working Party's areas of interest. For example, it does not include transport planning (which Planning and Policy staff are assisting with).

Activity	Detail	When
	The main reasons are to ensure the RPS is being given effect and ensure council operations (eg. flood management) are not unduly regulated.	
Treaty settlement process	Supporting Treaty settlements as there are implications for council's activities. Currently involved in the Kaipara Moana settlement process.	Ongoing
TOAT Beach Board (90 Mile Beach)	Advice to board and leading / assisting with preparation of beach management plan.	Advice to board – ongoing Beach management plan – complete early 2021
NRC input into national proposals (eg. proposed NPS for biodiversity)	See separate items on Aquaculture NES and NPS on Urban Development.	See separate items
Regional Plan guidance material	Once the Plan (or parts of) are operative, the planning team will produce guidance material to assist with interpreting / implementing the Plan.	Start mid-late 2020
Additional sites of significance to tangata whenua – plan change	Possible plan change. Likely to piggy-back on other water related plan change(s).	Notify 2021
Mana Whakahono o Rohe (MWR)	Planning team assisting Māori Relationships team with roll-out of joint hapū MWR. Will also be involved in developing any iwi based MWR	Council approved joint hapū MWR February 2020. Next step is to roll out with active hapū.
RPS – 5-year review	RMA requires a review of the RPS.	Start 2021

Recommended Actions | Ngā mahi tūtohutia

Nil – presented for information purposes only

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 13 August 2020

TITLE: Regulatory Update / Work Programme

ID: A1348557

From: Tess Dacre, Compliance Monitoring Manager

Executive Summary | Whakarāpopototanga

Over the period 1 June to 31 July 2020, a total of 1,183 consents were monitored. A total of 17 (1.4%) of those were recorded as being significantly non-compliant.

A total of 169 environmental incidents were recorded over the same period, with the most frequent incident type being burning and smoke nuisance accounting for 44 (26%) of the incidents, followed by sewage related incidents (20 or 12%).

A large number of overflows and damage to wastewater infrastructure were reported during the 17-18 July storm event. The role and response of Compliance staff was to ensure remedial works were undertaken without exacerbating situations or causing new problems. Compliance staff also were busy working through a large number of issues in the region relating to sediment and control following the storm. A significant amount of repair work was undertaken under emergency works provisions as provided in the RMA.

Compliance staff issued five infringement and 25 abatement notices in relation to non-compliant activities from 1 June to 31 July.

There was Court action in relation to four prosecutions:

1. Sand dune removal – Tokerau Beach; The defendant pled guilty to the charges for the offences, requesting to participate in the restorative justice process, which was agreed to and directed by the Judge. The next court appearance is scheduled for 23 September 2020 to monitor the restorative justice process.
 2. Farm dairy effluent – Purua; The defendants pled guilty to a total of 14 charges on 23 July 2020. Sentencing is scheduled for 18 September 2020.
 3. Timber treatment plant discharges – Whangārei; The defendants entered not guilty pleas on 29 May 2020. The council filed further charges on 8 July 2020. The judge has agreed that the two sets of charges be joined and adjourned the case until 18 September 2020.
 4. Earthworks without erosion and sediment controls – Totara North: Charges were laid 20 July 2020 against an individual for earthworks undertaken without controls, and work within a watercourse and the riparian management zone. The first court appearance is scheduled for 21 August 2020.
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Recommended Actions | Ngā mahi tūtohutia

Nil – for information purposes only

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Colin Dall

Title: Group Manager - Regulatory Services

Date: 14 August 2020

TITLE: National Policy Statement on Urban Development 2020

ID: A1348558

From: Justin Murfitt, Strategic Policy Specialist

Executive Summary | Whakarāpopototanga

This paper provides a summary of the National Policy Statement on Urban Development (NPSUD) which was gazetted on 23 July 2020. The NPSUD comes into effect on 20 August 2020 and will replace the National Policy Statement on Urban Development Capacity 2016. The NPSUD is intended to ensure councils plan for urban growth in a coordinated way based on evidence of demand, supply and pricing. It places particular emphasis on those urban areas facing strong demand for business and housing development.

Recommended Action | Ngā mahi tūtohutia

Provide updates to the working party on progress with the Housing and Business Development Capacity Assessment, the Future Development Strategy and bottom lines for development capacity for Whangārei urban environment.

Background | Tuhinga

The NPSUD comes into effect on 20 August 2020 and will replace the National Policy Statement on Urban Development Capacity 2016. There are material differences between the two instruments in terms of the mechanisms used and directions to councils, but the overall intent of both are similar – to improve the responsiveness and competitiveness of land and development markets and require local authorities to open up more development capacity, so more homes can be built to meet demand.

Key changes are:

- a requirement for planning decisions to contribute to well-functioning urban environments
- specific reference to amenity values, climate change, housing affordability and the Treaty of Waitangi (te Tiriti o Waitangi)
- a requirement for local authorities to enable greater intensification in areas of high demand and where there is the greatest benefit – city centres, metropolitan centres, town centres and near rapid transit stops
- removal of minimum car parking rates from district plans
- a requirement for local authorities to be responsive to unexpected plan change requests where these would contribute to desirable outcomes.

Similar to the 2016 version, the NPSUD retains a hierarchy or tiered direction based on population size and growth rate with the most direction applied to the largest and fastest growing urban centres. Tier 1 includes the major metropolitan centres (Auckland, Hamilton, Tauranga, Wellington and Christchurch). Whangārei City is identified as a 'Tier 2' urban environment.

The key requirements for Tier 1 and 2 centres include:

- Housing and business development capacity assessments - to identify supply and demand for housing and business land and quantify the development capacity that is sufficient to meet expected demand for housing and for business land in the short term, medium term, and long term and inform RMA planning documents.
- Future Development Strategy (FDS) – the purpose is to promote long-term strategic planning for urban environments and provide sufficient development capacity to meet demand over 30 years. It must spatially identify locations where development capacity is to be provided and the

infrastructure needed to support it. It also needs to identify constraints on development and iwi / hapū values and aspirations for urban development.

The FDS must be prepared every six years and must be subject to consultation (S83 LGA) and be reviewed every three years (to inform LTPs). The FDS must also have an implementation plan which is to be updated annually (no consultation required). Every Tier 1 and 2 local authority must have regard to the FDS when preparing / changing RMA planning documents.

Most direction in the NPSUD relates to local authorities (district and city councils) although there are some implications for council as outlined below:

- **Policy 5:**

Regional policy statements and district plans applying to tier 2 and 3 urban environments are to enable heights and density of urban form commensurate with the greater of:

- i) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or
- ii) relative demand for housing and business use in that location.

- **Policy 7:**

Tier 1 and 2 local authorities are to set 'housing bottom lines' (amount of development capacity that is sufficient to meet expected housing demand) for the short-medium term (next 10 years) and the long term in their regional policy statements and district plans (HBA for Tier 2 urban environments are due 31 July 2021).

- **Clause 3.6:**

For each tier 1 or tier 2 urban environment, as soon as practicable after an HBA is made publicly available the relevant regional council must insert into its regional policy statement without using Schedule 1 RMA:

- i) a housing bottom line for the short-medium term; and
- ii) a housing bottom line for the long term;

- **Clause 3.8(3):**

Every regional council must include criteria in its regional policy statement for determining what plan changes (that provide significant development capacity not otherwise enabled in a plan or not in sequence with planned land release) will be treated as adding significantly to development capacity. This implements NPSUD Policy 8 says councils are to be 'responsive' to plan changes that increase development capacity/improve urban environments - this appears to relate to private plan changes that create development capacity or improve urban environments.

Implementation timeframes are set out in the following table. The requirements for Council coincide reasonably well with the 5-year review of the Regional Policy Statement (May 2021). Staff understand that the Whangārei District Council is reasonably well placed to meet the Tier 2 requirements of the NPSUD 2020, given they had similar obligations under the 2016 version.

Time	Requirements
Initial implementation	
Immediately from commencement date (28 days following gazettal)	All objectives apply
No later than 31 July 2021	Tier 1 and 2 local authorities have completed the housing assessment aspect of the new housing and business development capacity assessment (HBA)
Eighteen months from commencement date	Tier 1, 2 and 3 territorial authorities have removed provisions in plans relating to minimum parking rates

Time	Requirements
Two years from commencement date	Tier 1 and 2 local authorities have notified plan changes implementing intensification policies
As soon as practicable	Tier 3 local authorities have notified plan changes implementing intensification policies
In time to inform 2024 long-term plans	<ul style="list-style-type: none"> Tier 1 and 2 local authorities have completed HBAs Tier 1 and 2 local authorities have prepared or reviewed future development strategies (FDSs)
Ongoing timeframes	
Quarterly	<ul style="list-style-type: none"> Tier 1, 2 and 3 local authorities must monitor housing indicators Tier 1 local authorities must also monitor development uptake in medium and high-density zones
At least annually	Tier 1, 2 and 3 local authorities must publish the results of their monitoring
As soon as practicable and within 12 months of publishing the relevant monitoring report	Tier 1 territorial authorities evaluate zone rules, where uptake is not meeting the development outcomes anticipated and notify plan changes if required
Every three years	<ul style="list-style-type: none"> Tier 1 and 2 local authorities update HBAs to inform FDSs, long term plans, infrastructure strategies Tier 1 and 2 local authorities update FDSs
Every six years	Tier 1 and 2 local authorities prepare new FDSs

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 13 August 2020

TITLE: Aquaculture NES
ID: A1348560
From: Michael Day, Natural Resources Policy Manager

Executive Summary | Whakarāpopototanga

On 27 July 2020 the Government released the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 (the NES). However, the NES does not come into force until 1 December 2020.

These regulations provide for replacement coastal permits for existing marine farms, including in some situations, the ability for an existing marine farm to realign or make changes to consented species. The regulations prescribe specific requirements for seeking the views of tangata whenua on draft coastal permit applications. Where that does not occur, councils can impose more stringent notification requirements and have the ability to more broadly assess the effects of an application on tangata whenua values.

Our Proposed Regional Plan rules for the re-consenting of aquaculture are generally aligned with many of the regulations coming out of the NES (noting that many of our aquaculture rules are still subject to Environment Court appeals and, therefore, may change). This aside, it is noted that several of the regulations direct more restrictive rules than our Proposed Plan (for example, re-consenting aquaculture in a 'significant' area under our Proposed Plan is a restricted-discretionary activity, whereas re-consenting in an 'inappropriate' area is a fully discretionary activity under the NES).

Additionally, the regulations stipulate that a regional plan may adopt a more lenient rule for replacement coastal permits with regards to several rules (such as re-consenting not within inappropriate areas). The regulations stipulate this will be a restricted-discretionary activity, whereas our Proposed Plan has a controlled activity status for this application.

The Ministry for Primary Industries Aquaculture team will be producing implementation guidance for the NES before the end of the year. The NES is available to view here:

<http://legislation.govt.nz/regulation/public/2020/0170/latest/LMS377269.html>

Recommended Actions | Ngā mahi tūtohutia

That the Planning and Regulatory Working Party receive the paper and provide verbal feedback.

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 13 August 2020

TITLE: Water Services Bill
ID: A1348562
From: Justin Murfitt, Strategic Policy Specialist

Executive Summary | Whakarāpopototanga

The item provides an overview of the Water Services Bill (the Bill) that has been introduced to parliament for first reading. The Bill is part of the Government's wider reform of the drinking water regulatory system. The Bill will repeal part 2A of the Health Act 1956 and replace it with a stand-alone Act to regulate drinking water. The Bill will also amend the Local Government Act 2002 and make minor changes to the Resource Management Act 1991. A date for submissions to the Select Committee has yet to be confirmed.

Recommended Actions | Ngā mahi tūtohutia

That staff update the Planning Working Party on progress of the Bill and the need for a submission by council.

Background | Tuhinga

The purpose of the Bill is to ensure that drinking water suppliers provide safe drinking water to consumers and in particular:

- imposes a duty on drinking water suppliers to have a drinking water safety plan and to comply with legislative requirements (such as drinking water standards); and
- provides a source water risk management framework that (with the Resource Management Act 1991, regulations and the National Policy Statement for Freshwater Management, enables risks to source water to be properly identified, managed, and monitored; and
- provides mechanisms that enable regulation of drinking water to be proportionate to the scale, complexity, and risk profile of each drinking water supply; and
- provides mechanisms that build and maintain capability among drinking water suppliers and across the wider water services sector; and
- provides a framework for the continuous and progressive improvement of the quality of water services in New Zealand.

Key points of note in the Bill include:

- It requires that Te Mana o te Wai (as defined in the NPS for Freshwater Management 2020) is given effect to in performing functions, powers and duties under the Bill.
- A drinking water supplier (excludes domestic 'self-suppliers') must ensure that the drinking water supplied by the supplier is safe, of a sufficient quantity, complies with standards and must take immediate action to investigate and remedy 'safety' problems. The supplier must also advise Taumata Arowai and consumers that the drinking water is or may be unsafe.
- Supply owners must prepare and implement a drinking water safety plan (as specified in Section 31) and provide this to Taumata Arowai. This must include a source water risk management plan and a multi-barrier approach to prevent hazards entering raw water, remove particles, pathogens and chemical hazards and inactivate pathogens using disinfection.
- Taumata Arowai is to review drinking water safety plans and monitor compliance.
- The board of Taumata Arowai must prepare a drinking water compliance, monitoring, and enforcement strategy (three-year review cycle) and prepare an annual drinking water regulation report.

- Taumata Arowai must develop (in consultation with operators, regional councils and other relevant parties), publish, and maintain environmental performance measures for wastewater and stormwater networks
- Monitoring and annual reporting on the environmental performance of wastewater and stormwater networks and network operators by Taumata Arowai.

The Bill also establishes:

- Powers to issue drinking water standards (the Governor General by Order in Council) – these standards can specify minimum or maximum amounts of substances in water but cannot require fluoride be added to water. Consultation is required before standards can be issued.
- A register of drinking water supplies maintained by Taumata Arowai (to be public)
- Exemptions to requirements on drinking water suppliers
- Emergency powers of Taumata Arowai and exemptions from Part 3 RMA for emergencies
- Requirements for operators to authorised, requirements for water testing and accreditations
- Appeals against decisions of Taumata Arowai
- Enforcement and compliance powers and instruments and infringement and enforcement provisions.

Changes to the Local Government Act 2002 include requirements to assess drinking water and wastewater/sanitary services available to the community and ensure communities have access to water if suppliers face significant problems. The Bill also changes Section 104G RMA to require that in considering an application for resource consent, the consent authority must have regard to actual and potential effects of the activity on drinking water sources and any risks to drinking water posed by the activity.

Implications for Council

Most of the Bill relates to the functions, powers and duties of Taumata Arowai and water suppliers, however, there are specific duties imposed on regional councils – these include:

- contributing to the development and implementation of source water risk management plans including information on land use activities, potential sources of contamination, known risks or hazards and other water users that could affect quality or quantity of the source water supply.
- providing monitoring data on the quality of source water supply
- publishing and providing Taumata Arowai with information on source water quality and quantity in their region annually, including any changes to source water quality and quantity
- assessing the effectiveness of regulatory and non-regulatory actions to manage risks or hazards to source water in their region at least once every three years and making this information available to the public on websites.

A date for submissions to the select committee has yet to be set. Staff will update the Working Party on progress of the Bill and the need for a submission by council.

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 14 August 2020

TITLE: Fast-tracked Consents

ID: A1348565

From: Colin Dall, Group Manager - Regulatory Services

Executive Summary | Whakarāpopototanga

The COVID-19 Recovery (Fast-track Consenting) Act 2020 (“the Act”) is new legislation that only came into effect on 9 July 2020. The Act provides for an alternative consenting pathway for projects listed in Schedule 2 of the Act or those that are referred to an expert consenting panel under the relevant sections of the Act.

The consent applications for a fast-track project are determined by an expert consenting panel appointed under the Act.

There are two projects listed in Schedule 2 of the Act located in Northland:

No.	Project		Description	Location
LP08	Papakāinga Development	He Korowai Trust, Kaitāia (supported by Te Puni Kōkiri)	The addition of 24 new dwellings to an existing papakāinga	23 Kohuhu Street Kaitāia
LP16	Matawii Water Storage Reservoir	Te Tai Tokerau Water Trust	Construction of water storage and distribution infrastructure in Kaikohe to support the development of Northland’s agriculture and horticulture sector and to provide drinking water for Kaikohe involving earthworks, land use, and water-related consents, including consents for the taking and damming of water	Private land to the north east of Kaikohe

The Northland Regional Council will be involved in the consenting process for LP16 but may have little or no involvement in LP08, as this project may not include activities that would have required resource consents from the council under the Resource Management Act 1991 (“the RMA”).

Where the council is a relevant local authority for a fast-track project its role under the Act is to:

1. Assist the expert consenting panel appointed to process the consents for the project by providing advice within the knowledge of the council, if requested (Clause 11 (2) of Schedule 5). In addition, Clause 7 of Schedule 6 provides for information sharing between the EPA (Environmental Protection Authority).and the council.
2. Nominate a person or persons to be a member of an expert consenting panel for the project (Schedule 5 clause 3(2)(a) of the Act).

The council may recover from the EPA the actual and reasonable costs it incurs in providing any requested assistance (Clause 14(3) of Schedule 5).

After withdrawing an earlier application, the Te Tai Tokerau Trust lodged a new application on 11 August for the Matawii Water Storage Reservoir. The council has put forward three nominations for an expert consenting panel member to the EPA.

Recommended Actions | Ngā mahi tūtohutia

That staff provide updates to the Planning and Regulatory on progress on all fast-track projects for which the Northland Regional Council is a relevant local authority.

Background | Tuhinga

A copy of the COVID-19 Recovery (Fast-track Consenting) Act 2020 can be viewed on the Parliamentary Counsel Office's "New Zealand Legislation" website using the following link – <http://www.legislation.govt.nz/act/public/2020/0035/latest/LMS363335.html>

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Colin Dall
Title: Group Manager - Regulatory Services
Date: 13 August 2020

TITLE: Regional Plan Update
ID: A1348571
From: Michael Day, Natural Resources Policy Manager

Executive Summary | Whakarāpopototanga

Overview

There are 23 appeals (to the Environment Court) against the council's decision on the Proposed Regional Plan for Northland (Proposed Plan). Most of the appellants have appealed multiple provisions of the Proposed Plan. Through face-to-face mediation (and subsequent negotiations), the parties have now managed to reach agreement on approximately 85% of the appealed provisions (have now been agreed between the parties), with the balance remaining unresolved.

Since the last Working Party update (24 June 2020), all appeals on Topic 8 (Discharges to air) to the Proposed Plan were resolved via consent order. Rule C.7.2.5 (Discharges to air from industrial or trades premises) was set down for a hearing in late July, but the relevant parties managed to reach an agreement before the hearing. All other provisions within this topic (objectives, policies and rules) had previously been agreed between the parties.

In early August, the Environment Court signed off the consent order for GMO provisions. This has introduced an objective, policies, rules and definitions into the Proposed Plan relating to the management of GMOs in the coastal marine area.

All consent orders can be found here: <https://www.nrc.govt.nz/your-council/about-us/council-projects/new-regional-plan/consent-orders/>

In early August, staff attended mediation on the appeals seeking to introduce additional provisions relating to greater marine protection (known as the 'fishing controls' appeals). The parties are continuing to work through their positions, and it is expected that there might be another round of mediation later in the year.

There are still a number of provisions across the remaining topics that are unresolved. Staff continue to negotiate with the parties in an attempt to settle the appeals outside of Court.

Hearings

A hearing was held (in Auckland) for the Mangrove provisions of the Proposed Plan during the week starting 10 August 2020.

The Court has recently set down the following topics for hearings:

- Topic 7 (Discharges to Land and Water) and Topic 9 (Land Use and Disturbance Activities) is set down for the week of 21 September 2020.
- Topic 3 (Allocation and Use of Water) and Topic 4 (Water Quantity) is set down for a hearing in the week of 26 October 2020.
- Topic 11 (Biodiversity and Outstanding Natural Features/Landscapes) is currently set down for a two-week hearing in the weeks of 26 November and 7 December 2020.

Each topic has an agreed timetable for circulating and filing evidence (Council, those parties seeking more liberal provisions and those parties seeking more restrictive provisions). Staff are happy to speak further to this if requested.

Recommended Actions | Ngā mahi tūtohutia

That the Planning and Regulatory Working Party receive the update and provide verbal feedback.

Attachments | Ngā tapirihanga

Nil

Authorised by Group Manager

Name: Ben Lee
Title: GM - Strategy, Governance and Engagement
Date: 13 August 2020