

**Planning & Regulatory Working Party**  
**Wednesday 28 October 2020 at 9.30am**

# **AGENDA**

## Planning & Regulatory Working Party Agenda

Meeting to be held via Zoom video and teleconferencing  
on Wednesday 28 October 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

Item	Page
<b>1.0 KARAKIA TIMATANGA</b>	
<b>2.0 APOLOGIES   NGĀ WHAKAPAHĀ</b>	
Pita Tipene	
<b>3.0 DECLARATIONS OF CONFLICTS OF INTEREST   NGĀ WHAKAPUAKANGA</b>	
<b>4.0 REPORTS   NGĀ RIPOATA</b>	
4.1 Record of Actions	3
4.2 Planning and Policy Work Programme	7
4.3 Regulatory Services Update	10
4.4 Regional Plan Update	11
4.5 Freshwater Management Plan Change Update	13
4.6 Efficient Use of Water - Mechanisms for Council	15
4.7 Reducing the Impact of Plastic on our Environment	23
<b>5.0 KARAKIA WHAKAMUTUNGA</b>	

**TITLE:** **Record of Actions**

**ID:** A1374644

**From:** Rachael King, Planning and Policy/Maori Relationships Administrator

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

---

### **Executive Summary | Whakarāpopototanga**

The purpose of this report is to present the Record of Actions of the last meeting held on 26 August 2020 for review by the meeting.

---

### **Attachments | Ngā tapirihanga**

Attachment 1: Record of Actions - 26 August 2020  

Planning & Regulatory Working Party  
26 August 2020

## Planning & Regulatory Working Party Record of Actions

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

**Present:**

Cr Joce Yeoman	(Chair)
Cr Amy Macdonald	
Cr Colin Kitchen	
Mira Norris	Te Parawhau Hapū Authority Charitable Trust
Rowan Tautari	Te Whakapiko Hapū
Juliane Chetham	Patuharakeke Te Iwi Trust Board

**In Attendance:**

<b>Full Meeting</b>	
Ben Lee	GM - Strategy, Governance & Engagement
Michael Day	Natural Resources Policy Manager
Justin Murfitt	Strategic Policy Specialist
Brenda Baillie	Policy Specialist
Alison Newell	Policy Specialist
Rachael King	Planning & Policy Administrator (minutes)
Colin Dall	GM - Regulatory Services
Tess Dacre	Compliance Monitoring Manager
<b>Part Meeting</b>	
Malcolm Nicolson	CEO

The Chair declared the meeting open at 9.35am

### KARAKIA TIMATANGA

Joce Yeoman

#### 1.0 APOLOGIES | NGĀ WHAKAPAHĀ

Penny Smart, Pita Tipene

#### 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

9.40am – Juliane Chetham joined the meeting

Planning & Regulatory Working Party  
26 August 2020

### 3.2 Planning & Policy Work Programme

**Presented by:** Michael Day, Natural Resources Policy Manager

- Report taken as read
- NES rules come into effect on 3 September - trying to be clear which rules apply at that point - some are contingent upon other rules and regulations, eg. farm environment plans
- Manawhakahono-ā-rohe – has now been referred to the Māori Relationships team to follow up on
- Is there a possibility of attending Four Waters and providing a presentation regarding land disturbance – suggest offering to go along and have a chat to them
- Discussions with DairyNZ and Fonterra – have offered to provide staff to present “roadshows” if required – they seem happy to take up the offer

### 3.3 Regulatory Update / Work Programme

**Presented by:** Tess Dacre, Compliance Monitoring Manager

- Report taken as read

### 3.4 National Policy Statement on Urban Development 2020

**Presented by:** Justin Murfitt, Strategic Policy Specialist

- Report taken as read
- Implications are mostly for district councils, but there are a few points to note as Whangārei has been designated Tier 2
- WDC is well placed due to previous work done under the NPS
- Need to look at policy in the RPS around planning for growth in terms of transport hubs etc.
- Need to add policy to guide decisions on private plan changes which will provide for urban growth / urban planning
- Timing works well given we have five-year review of RPS coming up next year
- FNDC plan due to come out end of this year / start of next year – looking to have a range of rules around protection of versatile soils – looking at that issue quite closely now

### 3.5 Aquaculture NES

**Presented by:** Michael Day, Natural Resources Policy Manager

- Report taken as read
- NES comes into force on 1 December 2020 and only applies to the re-consenting of existing aquaculture
- Is generally aligned with rules coming out of our Proposed Regional Plan, however, most of our aquaculture rules are still under appeal

### 3.6 Water Services Bill

**Presented by:** Justin Murfitt, Strategic Policy Specialist

- Report taken as read
- First reading, so there is a fair way to go
- Sets out the terms and duties the Board is obliged to perform - regulations still to come

Planning & Regulatory Working Party  
26 August 2020

- Some requirements for regional councils, primarily around source water supplies (incl. monitoring), risk management
- Drinking water suppliers needing to ensure sufficient quantity – that would be for TAs – unsure exactly what that means at this stage for Northland in light of droughts etc
- Discussion took place regarding illegal water suppliers / tank deliveries and the requirements for certification under the local district health board

### 3.7 Fast-tracked Consents

**Presented by:** Colin Dall, GM - Regulatory Services

- Report taken as read
- Expect to receive an invite from the EPA today if it's going to meet its statutory obligations to invite comment from an array of different parties
- Under the Act, the relevant iwi authority can nominate the appropriate person for the expert panel
- Only have ten working days to provide comment – no opportunity to take it to Council – considered an operational issue, but consideration will be given to keeping people informed

*10.31am – Malcolm Nicolson and Rowan Tautari left the meeting*

- As part of our comment would we be providing our own environmental impact assessment?
- Discussion took place regarding the desired skill set for expert panel members moving forward

**Agreed Action Points:**

- ***Colin to provide an update to the next WP meeting in October***
- ***Colin to check with the EPA as to whether the names of the nominees are public information, and if so, provide them to the working party***

### 3.8 Regional Plan Update

**Presented by:** Michael Day, Natural Resources Policy Manager

- Report taken as read
- Mangroves hearing – only two of the five days took place before it was adjourned due to latest COVID alert – now due to be completed at the end of September in Whangārei

### KARAKIA WHAKAMUTUNGA

Joce Yeoman

The Chair also noted a huge thank you to Michael Day for the phenomenal amount of work done to progress the PRP to its current state and best of luck for his new role

**The meeting closed at 10.46am**

**TITLE:** Planning and Policy Work Programme

**ID:** A1377327

**From:** Ben Lee, GM - Strategy, Governance and Engagement

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

## Executive Summary | Whakarāpopototanga

The following table sets out the work programme for the Planning and Policy team<sup>1</sup> for the next three years. It only includes work relevant to the Planning and Regulatory Working Party's terms of reference.

Activity	Detail	When
<b>Coastal occupation charging</b>	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.	12 November TTMAC workshop
<b>Marine protected areas</b>	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
<b>Wetland mapping</b>	Mapping project to clearly define wetlands and provide certainty about where wetland rules apply. MFE has contracted Morhum to pilot a wetland mapping methodology. NRC has supplied Northland data so its looking promising that there will be a Northland output.	MFE are in the process of awarding the contract- expected late August.
<b>Freshwater quality management plan change</b>	A plan change to set freshwater quality objectives, targets and regulation to ensure the objectives are achieved and targets are met. Required to give effect to the Freshwater NPS	Previously indicated notification late 2021 or early 2022. Having reviewed new NPS and updating project plan now likely to be late 2022 / early 2023.
<b>Catchment-specific water quantity limits</b>	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)
<b>Proposed Regional Plan appeals</b>	Refer separate item.	Refer separate item.

<sup>1</sup> 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
<b>District plan changes and consents</b>	<p>The planning team provide feedback and make submissions on changes to district plans and major consent applications.</p> <p>The main reasons are to ensure the RPS is being given effect and ensure council operations (eg. flood management) are not unduly regulated.</p>	Ongoing
<b>Treaty settlement process</b>	<p>Supporting Treaty settlements as there are implications for council's activities.</p> <p>Currently involved in the Kaipara Moana settlement process.</p>	Ongoing
<b>TOAT Beach Board (90 Mile Beach)</b>	Advice to board and leading / assisting with preparation of beach management plan.	Advice to board – ongoing Beach management plan – complete Nov 2020 (ahead of schedule)
<b>NRC input into national proposals (eg. proposed NPS for biodiversity)</b>	See separate item on Government consultation on plastics.	See separate item
<b>Regional Plan guidance material</b>	<p>The planning team will produce guidance material to assist with interpreting / implementing the Plan in response to demand.</p> <p>The priority is for guidance for implementation of the policies that direct the assessment of impacts on tangata whenua for resource consent applications (policies D.1.1 and D.1.2 in particular). The Planning and Policy team are working with the Māori Relationships team to advance this.</p>	Start Oct / Nov 2020
<b>Additional sites of significance to tangata whenua – plan change</b>	Possible plan change. Likely to piggy-back on other water related plan change(s).	Notify 2021
<b>Mana Whakahono o Rohe (MWR)</b>	<p>Planning team assisting Māori Relationships team with roll-out of joint hapū MWR.</p> <p>Will also be involved in developing any iwi based MWR</p>	<p>Council approved joint hapū MWR February 2020.</p> <p>Next step is to roll out with active hapū.</p>
<b>RPS – 5-year review</b>	<p>RMA requires a review of the RPS by end of 2021.</p> <p>A project plan will be developed by the end of the year and anticipate this will be presented to the next Planning and Regulatory Working Party meeting.</p> <p>However, once there is further details about the RMA reforms, Council may wish to consider whether it is worth proceeding with the review.</p>	Start review 2021
<b>Te Mana o Te Wai</b>	Staff are digesting the Te Mana o Te Wai requirements of the Freshwater NPS and	Council feedback in next few months.



Activity	Detail	When
	preparing a draft implementation plan. Unsure of process at this stage but likely to be presented to council in the next few months.	

---

### Recommended Actions | Ngā mahi tūtohutia

Nil – presented for information purposes

---

### Attachments | Ngā tapirihanga

Nil

**TITLE:** Regulatory Services Update

**ID:** A1378848

**From:** Tess Dacre, Compliance Monitoring Manager

**Authorised by:** Colin Dall, Group Manager - Regulatory Services, on 23 October 2020

---

### Executive Summary | Whakarāpopototanga

Over the period 1 August to 30 September 2020 there were 1,312 compliance activities undertaken. Of these, 59 (4.5%) were assessed as significantly non-compliant.

A total of 174 environmental incidents were recorded over the same period. The most frequent incident type was burning and smoke nuisance, which accounted for 56 (32%) of the incidents, followed by sewage, spray-drift, and hazardous substances/spill/refuse, which all had 14 incidents recorded (8% each).

Compliance staff issued 26 infringement notices and 71 abatement notices in relation to non-compliant activities from 1 August to 30 September.

There was court action in relation to the following enforcement matters:

1. Sand dune removal – Tokerau Beach; The defendant has pled guilty and requested to engage in a restorative justice process. The next scheduled court date is 2 November 2020.
2. Farm dairy effluent – Purua; The four defendants (Shepherd, Shepherd Farms Ltd, Phillips, Phillips Farms Ltd) were sentenced on 18 September 2020 in the Whangarei District. Total fines were \$63,800.
3. Timber treatment plant discharges – Whangarei; A settlement agreement has been reached with the defendant which includes an Enforcement Order and payment of costs. NRC will now seek leave of the court to withdraw the charges.
4. Earthworks without erosion and sediment controls – Totara North; The next scheduled court date is 16 November 2020.
5. Burning and smoke nuisance – Waipu; Final Enforcement Orders were granted by the Environment Court on 20 October 2020 against L J Glamuzina and South Road Waipu Limited. An agreement was also reached on costs.
6. Dumping of trade and industrial waste – Kaitaia; NRC made an ex parte application to the Environment Court for interim enforcement orders. These have not yet been issued.

---

### Recommended Actions | Ngā mahi tūtohutia

Nil – for information purposes only

---

### Attachments | Ngā tapirihanga

Nil

**TITLE:** Regional Plan Update

**ID:** A1375272

**From:** Alison Newell, Policy Specialist

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

---

### Executive Summary | Whakarāpopototanga

Since the last Working Party update (26 August 2020), Environment Court hearings have been held or are underway on:

- Topic 7 (Discharges to Land and Water) and Topic 9 (Land Use and Disturbance Activities) - heard on 21 and 22 September;
- Topic 15 (Mangroves) - the hearing, which had been adjourned on 12 August, reconvened on 23 September 2020 and was adjourned again on 24 September (see below);
- Topic 3 (Allocation and Use of Water) and Topic 4 (Water Quantity) - hearing scheduled for 27 to 30 October.

Since the National Policy Statement for Freshwater Management (NPS-FM) and associated National Environmental Standards (NES-FM) came into force on 3 September 2020, questions have arisen as to how these impact on provisions under appeal.

#### Topic 7 (Discharges to Land and Water) and Topic 9 (Land Use and Disturbance Activities)

Topic 7 matters were resolved prior to hearing and the only outstanding matter heard related to land preparation. The parties involved were council, the Minister of Conservation, Federated Farmers of NZ and Horticulture NZ. The hearing centred on the size of setback that should be applied for land preparation in relation to inanga spawning sites and rivers, lakes and wetlands. A decision is not expected until next year.

#### Topic 15 Mangroves

During the mangrove hearing the following question was raised that led to the hearing being adjourned:

*Do the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 apply to wetlands in the coastal marine area (CMA)?*

Several parties consider that the NES-FM applies to the CMA, however, some consider that it does not. The judge instructed parties to file a memorandum by 16 October on their views on progressing proceedings. After conferring with parties, Council has submitted a memorandum requesting the Court to rule on the above question and proposing that this is set down for hearing in the week commencing 7 December 2020.

If the Court finds that the NES-FM does not apply to the CMA, closing submissions on the mangrove topic can be filed and an interim decision issued. If the Court finds that the NES-FM applies to the CMA, an analysis of the Proposed Regional Plan's provisions will be required to determine what aspects are more lenient or more stringent, and what revisions to provisions might be required.

This has implications for plan provisions beyond the mangrove topic and coincides with wetland definitions and provisions in the NES-FM and NPS-FM being a hot topic in local government and media e.g. [RNZ wetland definitions article](#) and [new-freshwater-protection-rules-being-heckled-from-all-sides](#).

#### Topics 3 (Allocation and Use of Water) and Topic 4 (Water Quantity)

The issues being heard include the activity status for takes that do not meet minimum flows or that exceed allocation limits, high flow allocation and minimum flows for rivers, minimum levels for lakes and allocation limits for rivers. The parties include Minister of Conservation, Royal Forest and Bird

Protection Society, Northland District Health Board, Federated Farmers of NZ, Northpower Ltd - Northland Fish and Game Council have withdrawn from proceedings but Forest and Bird have applied to the Court to adopt their points of appeal.

#### **Other Provisions under Appeal**

Resolution on other appeal points has continued informally through email exchanges between parties.

#### **Topic 14 (General Provisions and Plan Structure)**

In regards appeals by Bay of Islands Maritime Park and Forest and Bird seeking new provisions and mapping related to marine protection/prohibition on fishing activities several iwi authorities (Te Runanga A Iwi O Ngapuhi and Ngatwai Trust Board) and the Crown (Te Ohu Kai Moana Trustee Ltd and the Minister of Conservation) applied for joinders to the appeals, which were granted on 15 October. This was allowed at such a late stage in the process contingent on the new parties agreeing to accept the steps already taken, on a without prejudice basis, through mediation. This matter is now likely to require hearing next year.

#### **Scheduled Hearings**

The following hearings are scheduled/have been requested in coming months:

- Topic 11 (Biodiversity and Outstanding Natural Features/Landscapes) in the weeks of 26 November and 7 December 2020
- Topic 15 (Mangroves) legal question resulting from NES-FM wetland definition proposed for 7 December 2020

Each has an agreed timetable for circulating and filing evidence (ouncil, those parties seeking more liberal or more restrictive provisions, and rebuttal).

---

#### **Recommended Actions | Ngā mahi tūtohutia**

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

---

#### **Background | Tuhinga**

Not applicable

---

#### **Attachments | Ngā tapirihanga**

Nil

**TITLE:** Freshwater Management Plan Change Update

**ID:** A1375602

**From:** Alison Newell, Policy Specialist

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

---

### Executive Summary | Whakarāpopototanga

The National Policy Statement on Freshwater Management (NPS-FM) and associated National Environmental Standards and regulations came into force on 3 September 2020. This has meant that staff are now able to review the project planning with more certainty as to council's obligations and the processes to be followed.

Project planning documents and budget are being reviewed to reflect the obligations that council now has to give effect to Te Mana o Te Wai in relation to plan changes to both the Regional Policy Statement and the Regional Plan focussing on freshwater management.

Processes to engage with key stakeholders are underway.

---

### Recommended Actions | Ngā mahi tūtohutia

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

### Background | Tuhinga

Council is required to undertake plan change(s) under the Resource Management Act to give effect to the NPS-FM by the 31 December 2024 statutory deadline for public notification of the proposed plan change(s). The priority focus for council are the obligations in relation to freshwater quality, as existing water quantity provisions provide an adequate 'interim' policy framework whilst further work is undertaken to inform more detailed consideration of water quantity provisions.

This Plan Change therefore addresses freshwater quality matters, acknowledging that this is one component of an overall broader process that council will need to go through to fully implement the NPS-FM. This broader package of work includes actions taken by council under other legislation, for example incentives for fencing and riparian/wetland enhancement funded through the Long Term Plan which contribute to the overall objective of halting degradation and improving our freshwater.

Council has previously agreed a strategic approach to tangata whenua engagement and primary sector representatives (see below for update on progress).

### Stakeholder Engagement

Staff are preparing a specific communications and engagement plan for this project. The NPS-FM gives very clear direction that council must engage with tangata whenua and communities in developing the plan change every step of the way.

The concept of Te Mana o te Wai and the six principles<sup>2</sup> which underpin it, Policy 2.2.2<sup>3</sup>, and direction on implementation all point to the fundamental importance of council engaging with key stakeholders and the general public in developing any plan changes and associated provisions (such as Action Plans<sup>4</sup>).

---

<sup>2</sup> Mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, care and respect.

<sup>3</sup> "Tangata whenua are actively involved in freshwater management (including decision-making processes), and Maori freshwater values are identified and provided for."

<sup>4</sup> Action Plans may be appended to a regional plan or published separately.

Key stakeholder focus groups are being set up. Positive responses have been received to form a primary sector liaison group (Federated Farmers, Beef & Lamb NZ, Hort NZ, Dairy NZ, Fonterra, Northland Wood Council) with the first meeting likely late November.

The deadline for Expressions of Interest for membership of a Tangata Whenua Water Advisory Group closed on 20 October, with the Selection Panel to meet on 23 October to review the applications received. Twelve applications have been submitted to fill nine available spaces. The first meeting is likely to be mid/late November. Four members of a Wai Maori Group as a focus for engagement with iwi authorities were confirmed at the September Iwi and Local Government Chief Executives Forum meeting.

### **Data collection and analysis**

Contracts issued to NIWA, LW&S and Biospatial to build models to determine current state of the region's waterbodies and predict outcomes of different mitigation scenarios are almost complete, with final reports due mid-December. The outputs from this modelling will enable analysis of what improvements to water quality could be expected for different mitigation actions (e.g. riparian fencing, fencing, native forest planting).

### **Plan Change Development**

The plan change is expected to take two years to develop to point of public notification, with regular input from tangata whenua and key stakeholders into a draft proposed plan change which will then be made public for feedback and consequentially revised, before issuing a proposed plan change under the RMA freshwater plan change process.

### **Next Steps**

- Staff to bring an updated project plan focused on the key elements to Council, in a workshop format initially
- Confirmation of overall Freshwater Plan Change Project Implementation Plan by Water Steering Group and associated Communications and Engagement Plan
- Finalising background data analysis and scenarios modelling
- Initial key stakeholder and tangata whenua meetings

---

### **Attachments | Ngā tapirihanga**

Nil

**TITLE:** Efficient Use of Water - Mechanisms for Council

**ID:** A1376763

**From:** Justin Murfitt, Strategic Policy Specialist

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

---

### Executive Summary | Whakarāpopototanga

This report provides an overview of the measures available to council to manage water quantity and in particular drive water efficiency measures. The primary focus is on regulatory measures but other non-regulatory options are also summarised.

---

### Recommended Actions | Ngā mahi tūtohutia

1. That the report 'Efficient use of water - mechanisms for council' be received.
- 

### Background | Tuhinga

The efficient use of water can be promoted through a number of ways both regulatory and non-regulatory. The primary regulatory means for regional council is through the Resource Management Act 1991 (RMA) and include plan provisions (rules and policy), conditions of resource consents and application of standards / regulations (such as metering regulations). Non-regulatory programmes / initiatives are also available and are summarised.

#### RMA

Section 30 of the RMA devolves the following water quantity functions to regional councils:

- the maintenance of the quantity of water in water bodies and coastal water
- the maintenance and enhancement of ecosystems in water bodies and coastal water
- the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body (including the setting of any maximum or minimum levels or flows of water and the control of the range, or rate of change, of levels or flows of water)
- Allocating the taking or use of water

The National Policy Statement for Freshwater 2020 (NPSFM) and regulations also impose specific requirements on regional councils to manage water quantity. These taken together give council scope to apply provisions on water quantity management including measures to drive or require the efficient use of water. Non-regulatory measures can also be applied through good practice, education and awareness.

Under section 7 of the RMA council must have particular regard to, among other things, "*the efficient use*" water.

#### Regulatory measures

Council has included water quantity provisions in both the Regional Policy Statement and Proposed Regional Plan – these (as relevant) are summarised in **Appendix 1**. These provisions drive water efficiency (either directly or indirectly) and give council the discretion / ability to apply water efficiency measures through the resource consent process.

#### Limits

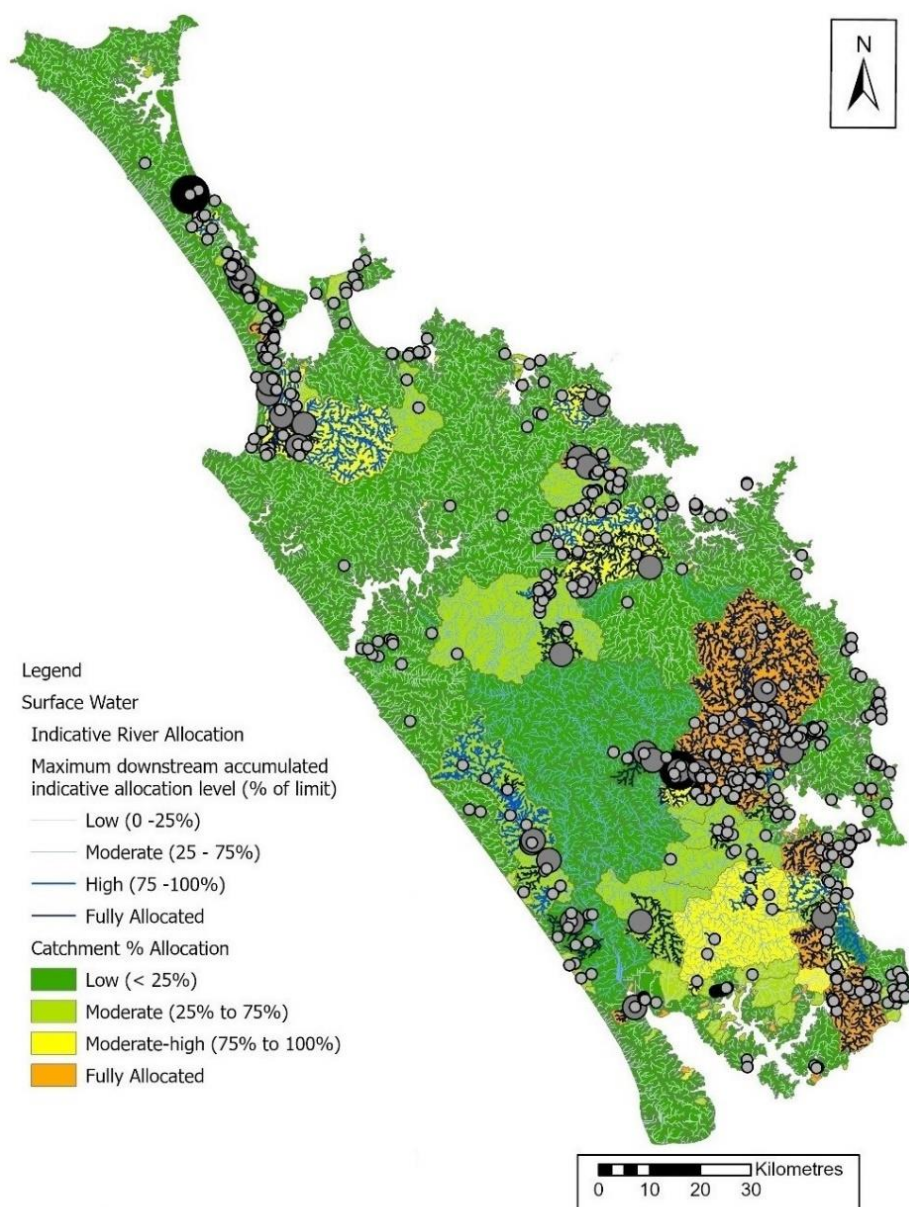
The National Policy Statement for Freshwater Management 2020 (and previous iterations) require that water quantity limits are included in regional plans. These include allocation limits and minimum flows / levels for rivers, lakes and aquifers.

Allocation limits ‘cap’ the total volume that can be extracted from a waterbody – they provide for ‘flushing flows’ and reliability of supply for water users. Minimum flows / levels define the amount of water that should remain in the waterbody to maintain ‘in-stream’ values (such as aquatic biodiversity, cultural or recreational values). These limits can be set at the scale of the freshwater management unit (FMU) or be applied to specific waterbodies or river reaches.

Water quantity limits drive efficiency given they restrict the availability of water for extraction, especially where catchments / waterbodies are highly / fully allocated, and the limits mean there is little or no water available for additional extraction.

Council has set limits at the FMU scale in the Proposed Regional Plan and there are approximately 35 river reaches/catchments and 11 mapped aquifers in Northland that are fully allocated under these limits. The Proposed Regional Plan (decisions version) applies a non-complying activity status to takes that exceed allocation limits or do not meet minimum flows – any application for such takes would need to demonstrate adverse effects would be no more than minor or would not be contrary to the objectives and policies of the plan a high bar to meet (note: much of the water quantity content is under appeal).

**Figure 1:** Locations of consented water takes, indicative river allocation at catchment and cumulative downstream reaches (as at 25 June 2020).





## Resource Consents

The resource consent process can be used to test actual need for water and require implementation of efficiency measures as conditions of consent. For example, policy in the Proposed Regional Plan gives council the ability to require information be provided in applications for water takes and discretion to impose conditions on permits. Policy direction includes:

- Irrigation: Require applicants for irrigation takes to justify rate and quantity of the take sought (including use of models to test actual need in terms of land use, crop type, soil type and climate such as SPASMO) – modelling results can be used to inform limits on the rate, total volume, timing and cessation of the take.
- Community/public takes: Applications for takes for community or public water supply are required to include a water management plan to demonstrate efficiency of the distribution network and current and future demand for water.
- Other takes: All other applications are required to include assessment of reasonable and efficient use and opportunities for re-use and conservation.
- Consent conditions: Must define the rate and total volume, require metering in most cases (where not already required by standards/regulations), define when the take is to be restricted or cease to comply with minimum flows/levels and specify when and under what circumstances the permit will be reviewed.

Examples of conditions of consent for irrigation include requirements to achieve 80% irrigation efficiency (i.e. 80% of the water is retained in the soil), develop an irrigation management plan (including the timing and rate of irrigation) and to avoid ponding / overland flow. Resource consents for municipal water takes typically include requirements for leak detection and the development of remediation plans when leakage reaches specified thresholds. Metering and review clauses are standard for such consents.

## Transfers

The ability to transfer water permits (resource consents) is provided for under s136 RMA. It provides for the transfer of a water take (or part of) to another person and / or another site if in the same catchment. Transfers can facilitate efficiency by transferring the right to take water to a more efficient use, by allowing unused water to be transferred and / or by relocating the take so it reduces allocation. Both parties (the holder of the permit and the person who it is to be transferred to) must apply for the transfer (as if it were a resource consent) and council can normally impose conditions on the take as if it were a new consent. The Proposed Regional Plan includes policy on transfers.

## Water shortage directions

Section 329 RMA provides regional councils the power to issue water shortage directions at any time there is a serious temporary shortage of water in its region or any part of its region. The direction may apportion, restrict, or suspend:

- the taking, use, damming, or diversion of water, and/or
- the discharge of any contaminant into water.

Water shortage directions are usually used to reduce the volume / rate of takes to prevent adverse effects on waterbodies and protect the most important uses. A hierarchy is typically applied so that the least 'important' takes are restricted or required to cease first (E.g. a take for pasture irrigation would come under restrictions before a take that provided for community supply).

## High flow harvest

Many regional plans provide for 'high flow allocation' being a take from a river when it is above median flow (i.e. during wet periods when there is plenty of water available). Such takes are usually for the purpose of storage. The Proposed Regional Plan provides for this as a restricted discretionary

activity – this can be a very useful tool in areas of high allocation / demand and reduces reliance on takes during lower river flows when adverse effects are more likely.

### **Local Government Act 2002 (LGA)**

Section 101B of the LGA requires Local Authorities to develop a 30year infrastructure strategy in Long Term Plans that outline how the assets (including water services) are to be managed taking into account growth, asset renewals / replacements and risks. The LGA also requires assessment of water and sanitary services (s125) to identify:

- the health risks to communities arising from any absence of, or deficiency in, water or other sanitary services;
- the quality of services currently available to communities within the district;
- the current and estimated future demands for such services;
- the extent to which drinking water provided by water supply services meets applicable regulatory standards

The assessment should inform the infrastructure strategy and would ideally include water efficiency measures and alternative supply as part of meeting demand, growth and managing the lifespan of the asset(s). Council can submit on district council LTPs advocating for increased water efficiency in the management of water supply networks and / or infrastructure strategies if warranted.

### **Non-regulatory measures**

#### **Water storage**

Facilitating water storage is another means of enabling efficient use of water by capturing overland flow during wet periods or taking from rivers when flows are high (above medians) and storing it, reducing reliance on extraction from natural waterbodies. The Proposed Regional Plan is relatively enabling regarding off-stream dams – they are a permitted activity but subject to terms/conditions to manage effects on natural waterbodies, other water takes and adjacent property. New in-stream dams generally require resource consent given the potential for impacts on values of the waterbody and other persons / water users.

#### **Advice / awareness**

Non-regulatory measures to promote water efficiency are varied – they can include retrofitting more efficient devices (such as shower heads, appliances and equipment), reducing leaks or improving infrastructure in water networks and recycling water. Council has trialled water efficiency measures in conjunction with dairy effluent reduction with significant reductions (up to 38%) proven with relatively modest investment. A summary of this project is available here:

<https://www.nrc.govt.nz/media/vlzpblag/waiotufarmsltdeffluentvolumereductionprojectreport.pdf>

#### **Water user groups**

Water user groups are permit holders in the same catchment/sub-catchment who work together to collectively manage water allocated to them, typically during times when takes are under restrictions. They can include agreements to take water at different times of the day or making unused water allocation available to others in the group. This voluntary approach has not been widely used in Northland to date but has real potential in areas with high allocation / demand. The Proposed Regional Plan includes a policy encouraging water user groups in the same catchment to temporarily collectively manage all or part of the water authorised by their water permits. The need for council involvement and / or consents for this purpose depends on the measures to be used (E.g. the need for formal transfers).

---

### **Attachments | Ngā tapirihanga**

Nil

## APPENDIX 1: Relevant RPS and Regional Plan Provisions

### The Regional Policy Statement

Objective 3.10: *Efficiently use and allocate common natural resources, with a particular focus on:*

- *Situations where demand is greater than supply*
- *The use of freshwater and coastal water space*
- *Maximising the security and reliability of supply of common natural resources for users.*

Policy 4.3.3: *Allocate and use water efficiently within allocation limits*

Method 4.3.5(1)(c): *Include policies and methods to improve the efficient allocation of water, including by:*

- *Requiring that the intended rate and quantity of water is reasonable and justified for the proposed use;*
- *Providing for the efficient transfer of water permits;*
- *Promoting water user groups;*
- *Requiring as a condition of water permits for municipal supply, contingency plans for the supply of water during drought periods;*
- *Require the efficient use of water in permitted and consented consumptive takes to the extent that is reasonable based on the level of existing allocation and likely future demand pressure in the catchment.*
- *Investigate unauthorised takes*
- *Include direction on metering requirements in the regional plan.*

Method 4.3.6:

- *Council will promote water user groups, particularly in areas of high demand / allocation*
- *District and regional councils will promote water harvesting, water storage and water conservation methods for new / changes in land use*
- *Encourage retrofitting of water conservation measures.*

### The Proposed Regional Plan (Appeals version as at August 2020)

Rule C.5.1.10 High flow allocation – restricted discretionary activity

*The taking and use of water from a river when the flow in the river is above the median flow that is not a permitted or controlled activity under C.5.1 of this Plan is a restricted discretionary activity.*

*Matters of discretion:*

1. *The timing, rate and volume of the take to avoid or mitigate effects on existing authorised takes and aquatic ecosystem health.*
2. *Measures to ensure the reasonable and efficient use of water.*
3. *The positive effects of the activity.*

Policy D.4.13: Reasonable and efficient use of water – irrigation

*An application for a resource consent to take water for irrigation purposes must include an assessment using a water balance model that considers land use, crop water use requirements, on-site physical factors such as soil water holding capacity, and climate factors such as rainfall*

*variability and potential evapotranspiration.*

*The model must reliably predict annual irrigation volume. The annual volume calculated using the model must meet the following criteria:*

- 1) an irrigation application efficiency of at least 80 percent, and*
- 2) crop water requirements that occur in nine out of 10 years.*

*Policy D.4.14: Reasonable and efficient use of water – group or community water supplies*

*An application for a resource consent to take or use water for community or public water supplies must include a water management plan to demonstrate water use efficiency and must set out the current and likely future demand for water that addresses:*

- 1. the number and nature of the properties that are to be supplied, and*
- 2. how the water supplier will manage water availability during summer flow periods and drought events, and*
- 3. the effectiveness and efficiency of the distribution network.*

*D.4.16: Water user groups*

*The formation of water user groups should be encouraged to allow permit holders who choose to work with other water permit holders in the same surface water catchment or aquifer where it is confined to that catchment to temporarily share all or part of the water take authorised by their water permit provided:*

- 1. all water permits are subject to conditions that specify a maximum rate of take, a daily volume, and a seasonal or annual volume; and*
- 2. real time metering and telemetry of water abstraction data is undertaken for all takes, and*
- 3. all water permits are subject to common water take restriction conditions, or any discrepancies in restriction conditions are addressed prior to the formation of the group.*

*D.4.17 Conditions on water permits*

*Water permits for the taking and use of water must include conditions that:*

- 1. clearly define the take amount in instantaneous take rates and total volumes, including by reference to the temporal aspects of the take and use, and*
- 2. unless there are exceptional circumstances, or the water permit is for a temporary take or a non-consumptive take, require that:*
  - a) the water take is metered and information on rates and total volume of the take is provided electronically to the Regional Council, and*
  - b) for water permits for takes equal to or greater than 10 litres per second, the water meter to be telemetered to the Regional Council, and*
- 3. clearly define when the water take must be restricted or cease to ensure compliance with environmental flows and levels, and*
- 4. require the use of a backflow prevention system to prevent the backflow of contaminants to surface water or ground water from irrigation systems used to apply animal effluent, agrichemical or nutrients, and*
- 5. ensure intake structures are designed, constructed and maintained to minimise adverse effects on fish species in accordance with good practice guidelines, and*

6. *specify when and under what circumstances the permit will be reviewed pursuant to Section 128(1) of the RMA, including by way of a common review date with other water permits in a catchment.*

#### D.4.18 Transfer of water permits

*An application to transfer a water permit, permanently or temporarily, pursuant to Section 136 of the RMA will generally be granted if:*

1. *both sites are in the same catchment (either upstream or downstream) or aquifer, and*
2. *other authorised takes are not adversely affected, and*
3. *there is no increase in the level of adverse effects on the health of aquatic ecosystems.*

#### Objective F.1.1 Freshwater quantity

*Manage the taking, use, damming and diversion of fresh water so that:*

- 1) *the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water are safeguarded and the health of freshwater ecosystems is maintained, and*
- 2) *the significant values, including hydrological variation in outstanding freshwater bodies and natural wetlands are protected, and*
- 3) *the extent of littoral zones in lakes are maintained, and*
- 4) *rivers have sufficient flows and flow variability to maintain habitat quality, including to flush rivers of deposited sediment and nuisance algae and macrophytes and support the natural movement of indigenous fish and valued introduced species such as trout, and*
- 5) *flows and water levels support sustainable mahinga kai, recreational, amenity and other social and cultural values associated with freshwater bodies, and*
- 6) *adverse effects associated with saline intrusion and land subsidence above are avoided (except where the taking, use, damming or diversion is for groundwater management at the Marsden Point refinery, in which case this clause does not apply), and*
- 7) *it is a reliable resource for consumptive and non-consumptive uses.*

#### **Proposed Regional Plan water quantity limits (abridged)**

Minimum flows and allocation limits for rivers

Freshwater management unit	Minimum Flow (% of 7d MAF)	Allocation limit (% of 7d MAF)
Outstanding rivers	100% of the seven-day mean annual low flow	10% of the seven-day mean annual low flow
Coastal rivers	90% of the seven-day mean annual low flow	30% of the seven-day mean annual low flow
Small rivers	80% of the seven-day mean annual low flow	40% of the seven-day mean annual low flow
Large rivers	80% of the seven-day mean annual low flow	50% of the seven-day mean annual low flow

#### Minimum levels for lakes and natural wetlands

Management unit	Minimum level
Deep lakes (> 10 metres in depth)	Median lake levels are not changed by more than 0.5 metres, and there is less than a 10 percent change in mean annual lake level fluctuation and patterns of lake level seasonality (relative summer versus winter levels) remain unchanged from the natural state.
Shallow lakes (≤ 10 metres in depth)	Median lake levels are not changed by more than 10 percent, and there is less than a 10 percent change in mean annual lake level fluctuation and patterns of lake level seasonality (relative summer versus winter) remain unchanged from the natural state.
Natural wetlands	There is no change in their seasonal or annual range in water levels.

#### Allocation limits for aquifers:

These are typically based on a percentage of recharge depending on the type of aquifer as follows:

Coastal aquifers: 10% of the average annual recharge

Other aquifers: 35% of the average annual recharge

Specific limits (based on m<sup>3</sup>/year) have been set for the Aupouri aquifer as set out in Table 27 of the Proposed Regional Plan.

**TITLE:** Reducing the Impact of Plastic on our Environment

**ID:** A1377849

**From:** Michael Payne, Policy Specialist

**Authorised by:** Ben Lee, GM - Strategy, Governance and Engagement, on 23 October 2020

---

### Executive Summary | Whakarāpopototanga

The Ministry for the Environment (MfE) is seeking feedback on proposals to reduce the impact of plastic on our environment. This paper provides an overview of the proposed amendments.

---

### Recommended Actions | Ngā mahi tūtohutia

That the Planning and Regulatory Working Party receive the paper.

---

### Background | Tuhinga

The Government is seeking feedback on its proposals to reduce the impact of plastic on our environment. The discussion document includes two proposals that would work side by side to reduce the impact of plastic waste on the environment:

Proposal 1: Phase out hard-to-recycle plastics

Proposal 2: Take action on single-use plastic items

Further information on the Government's proposal is available on MfE's website at the following address: <https://www.mfe.govt.nz/reducing-impact-of-plastic-on-environment>

#### Proposal 1: Phase out hard-to-recycle plastics

The Government is proposing a mandatory phase-out (a ban) on the sale and manufacture of PVC and polystyrene plastic packaging in two stages under section 23(1)(b) of the Waste Minimisation Act 2008.

It is anticipated that the targeted plastics will be phased out in two stages between now and 2025 as outlined below.

Stage 1 – soon (by January 2023)	Stage 2 – later (by January 2025)
<p>Regulations under the Waste Minimisation Act would:</p> <ul style="list-style-type: none"><li>prohibit the sale and manufacture of all food and beverage items that contain PVC packaging (e.g. meat trays and biscuit trays)</li><li>prohibit the sale and manufacture of some food and beverage items that contain polystyrene packaging (e.g. polystyrene cups and takeaway containers, meat trays sushi packaging).</li><li>phase out all oxo-degradable plastic in New Zealand. Oxo-degradable plastics are used for a wide range of packaging and single-use items and harm the environment by fragmenting into smaller pieces of plastic.</li></ul>	<p>Regulations under the Waste Minimisation Act would:</p> <ul style="list-style-type: none"><li>prohibit the sale and manufacture of all food and beverage items that contain polystyrene packaging not captured under stage 1. This packaging is likely to be more difficult to replace or move away from in the short term.</li><li>a ban on all expanded polystyrene (EPS) packaging (including homeware, electronics and other consumer goods).</li></ul>

## Proposal 2: Take action on single-use plastic items

The Government has identified a shortlist of single-use plastic items that are problematic in the waste or litter stream, and present an unnecessary use of plastic. The list is based on a range of considerations including early engagement with stakeholders, environmental harm, availability of alternatives, international precedent, and the potential impacts and risks of banning the item.

The Government is seeking to phase out the items listed in the table below by 2025 utilising their powers under the Waste Minimisation Act 2008.

Item for phase-out	Alternatives
Plastic straws	No straw Reusable metal or bamboo straws Edible straws Paper straws
Plastic cotton buds	Cotton buds with stems made from paper, bamboo or other materials Reusable cotton buds (replaceable heads)
Plastic drink stirrers	Wooden stirrers Reusable stirrers, eg. metal spoons
Single-use plastic tableware and cutlery	Reusable plates, crockery and cutlery Paper, cardboard or bamboo alternatives
Single-use plastic produce bags	No bag Reusable produce bags made from, eg. hessian, hemp, cotton
Single-use plastic cups and lids (not including disposable coffee cups)	Reusable cups Paper cups (Cups made from PET, HDPE or polypropylene could be exempt as these are more likely to be recyclable)
Non-compostable produce stickers	Compostable stickers

The Government is also seeking feedback on options to better deal with other problematic items such as single-use coffee cups, wet wipes, cigarette butts, balloons and glitter.

### Making a submission

The delegation for approving a submission of this nature falls to Councils Executive Leadership Team (ELT). Staff propose to present a submission for ELT's consideration in early November 2020 with the intent of making a submission before 4 December 2020.

Staff welcome comments from the Working Party that could inform the submission from NRC which is currently under development.

---

### Attachments | Ngā tapirihanga

Nil