

File Reference: 4.01005
Significance of Decision: Receives Only - No Decisions



Report To: Operations, Monitoring and Regulation Committee
Meeting Date: 20 June 2013
Report From: Rob Donald, Science Manager

An overview of faecal contamination in rivers and streams

Executive Summary

Faecal contamination of rivers and streams is most commonly due to multiple diffuse sources from the land rather than from easily identifiable point sources. Monitoring in the Bay of Plenty has shown that a number of rivers and streams have contamination levels above recreational water quality guidelines and in some cases these levels are increasing. Higher levels of contamination can be expected during and following rainfall events and this further emphasises the importance of diffuse sources.

Management of contamination sources requires an in-depth understanding of catchment characteristics (e.g. soil type, slope, land cover) and the activities within the catchment, including pastoral farming, on-site wastewater disposal, solid waste disposal and urban development. Land management options that target critical source areas (e.g. riparian zones, ponding areas, stream crossings) will in the long term reduce the level of faecal contamination but will not eliminate it.

A range of research techniques are available to determine the sources of faecal contamination. These can also be used to support operational measures (such as riparian protection, land retirement etc.) by giving land owners and Council feedback on whether works are effective in reducing the run-off of faecal contaminants. The costs of these techniques are not insignificant (of the order of \$20,000-\$50,000 for a medium sized catchment) and investigations therefore need to be targeted at priority catchments.

1 Recommendations

That the Operations, Monitoring and Regulation Committee under its delegated authority:

- 1 Receives the report, An overview of faecal contamination in rivers and streams.**
- 2 Notes that staff will continue to prioritise research on catchments that are showing elevated or increasing levels of faecal contamination.**

2 Introduction

Following the presentation of the annual bathing surveillance monitoring report in November 2012 the OMR committee requested that staff provide:

- A report on the costs to research faecal contamination after rainfall impacts with the aim of remedying pollution levels.
- A report demonstrating trends of faecal contamination in waterways.

This report begins with a description of how rainfall elevates the levels of faecal contamination in rivers and streams. An overview is then given of the Bay of Plenty situation focusing on trends and management case studies for a number of catchments. Finally, methods and indicative costs to research faecal contamination in waterways are discussed.

Note that while this report focuses on rivers and streams many of the research techniques and conclusions reached will also hold for estuaries, lakes and wetlands.

3 How does rainfall affect faecal contamination levels?

Rainfall mobilises a range of contaminants from the land into waterways. These contaminants include:

- Soil which can give rise to sedimentation of waterways and estuaries, and reduce water clarity.
- Nutrients (nitrogen and phosphorus) which can cause algal or aquatic weed blooms.
- Faecal microbes (e.g. bacteria, viruses) which can render water unsuitable for bathing or consumption.

Faecal microbe levels are elevated during rainfall due to wash-off from the land, pulses from hyporheic zones (where groundwater meets surface waters), and point source discharges. Figure 1 shows one example of the relationship between stream flow, turbidity and the faecal indicator bacteria *E.coli*. The relationship between faecal indicator concentrations and flow can be complicated by changes in the pulses of faecal contaminants which vary with the range and response of faecal contaminant reservoirs at any one time.

Monitoring of *E.coli* in pastoral landscapes has shown that peak concentration at a monitoring station can arrive ahead of the flood peak, whereas the peak pathogen concentration arrives with the flood peak. In other cases the peak *E.coli* concentration can occur after the flood peak. These observations have generated the hypothesis that such behaviour reflects three different possible (predominant) sources of pathogens in the floodwater: (i) by sediment entrainment, (ii) via local land runoff, or (iii) from upstream releases (e.g. from dams, inflows, or upstream floods)¹.

¹ G. McBride (2011): Explaining differential sources of zoonotic pathogens in intensively-farmed catchments using kinematic waves. Water Science & Technology Vol 63 No 4 pp 695–703.

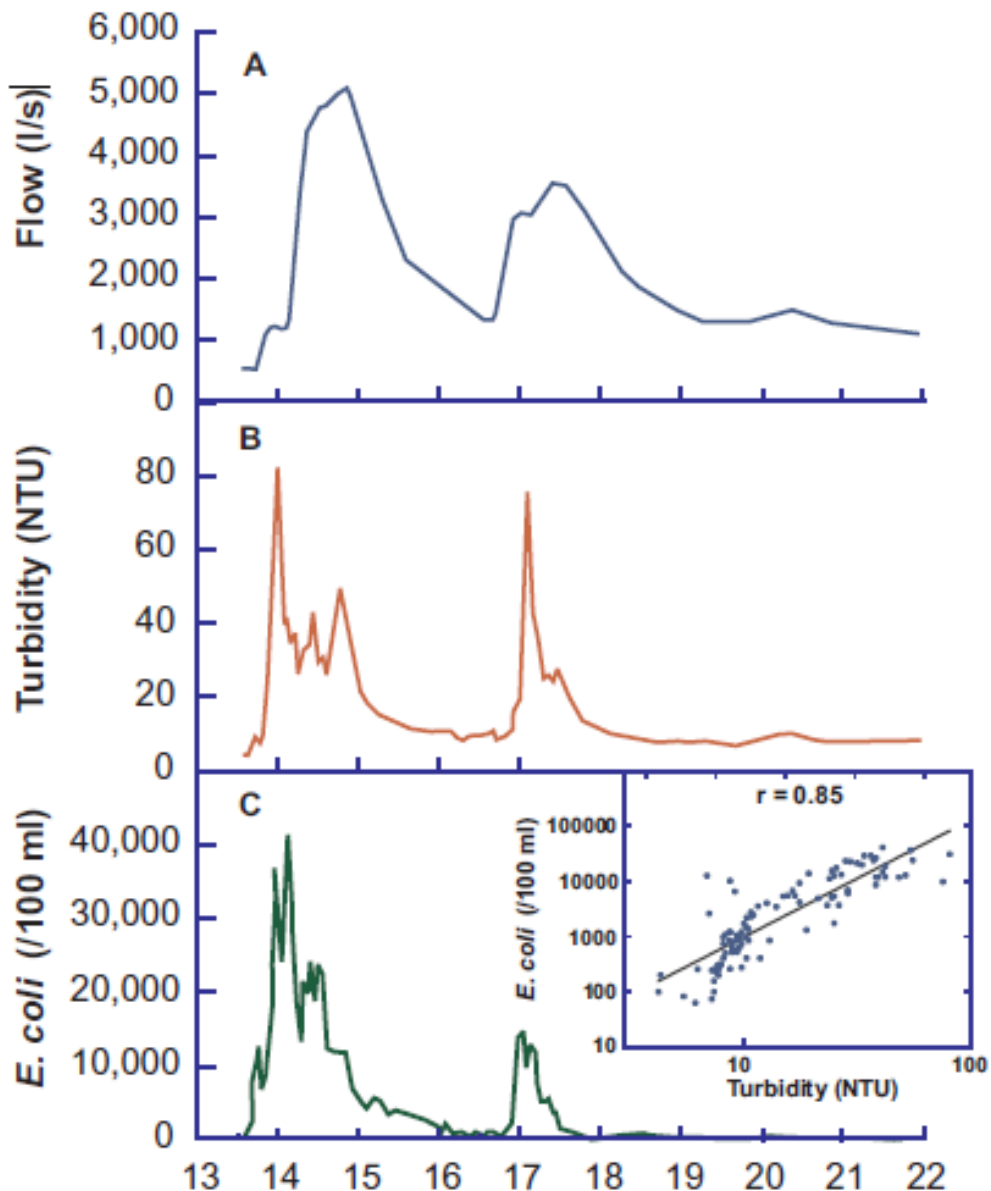


Figure 1: Flow (A), turbidity (B) and faecal indicator bacteria concentrations (*E. coli*) (C) measured in the Topehaehae Stream near Morrinsville during the natural flood event pictured above. The inset graph shows the relationship between faecal indicator bacteria and turbidity (an index of light scattering by fine suspended sediment) during the period of measurement².

² Reproduced from R. Davie-Colley et al. (2004): Flood flushing of bugs in agricultural streams. *Water and Atmosphere* 12 (2), 2004.

Any management strategy to reduce contamination levels would include targeting of the acute discharge of contaminated runoff, together with the chronic build up and wash-out of in-channel sources. Research shows a significant relationship between the concentration of *E.coli* in the soil and the concentration of *E.coli* in runoff, with grazed pasture having significantly higher concentrations in runoff than un-grazed pasture³. Retention of microbes in the soil is dependent on soil type, for example volcanic soils have higher microbial removal rates than 'clayey' gley soils. Soil type can therefore be important to the effectiveness of effluent irrigation where one of the benefits is the ability to trap microbes to minimise run-off into rivers and streams.

Reducing microbial pathogen contamination near the source can be achieved by reducing the potential for transfer into the wider environment or by intercepting the dominant transport routes (within the landscape or in the riparian zone)⁴. Fencing off of waterways removes direct stock access limiting inputs of faecal matter, reducing bank erosion, and in some cases increasing run-off filtration. One success story is from the Sherry River in Motueka where a study found that river crossings from dairy herds were a major contributor to faecal contamination. Installation of bridges subsequently reduced the faecal load by around 40%.

When rainfall is unable to soak down into the soil, faecal pathogens can be washed down grazed hillsides into waterways by surface runoff. One potential way to reduce the surface runoff of these pathogens into streams is to plant riparian buffer strips – zones of dense vegetation running alongside a waterway that can trap the microbes washed down the hill-slope. Buffer strips and vegetated filter strips should be considered a secondary consideration after best management practices have been put in place to control contaminants at the source (e.g. pond effluent irrigation controls, stock management, stock exclusion areas from critical source pathways).

The likely efficiencies attained with using riparian buffer strips and/or vegetated filter strips are highly site specific, that is, they are dependent on soil type, slope, vegetation, size of up-stream catchment and stocking management. Riparian buffer strips effectiveness can be limited by width of strip, type of vegetation and prolonged periods of rainfall.

³ Orchiston T.S. and R.W. Muirhead, (2011): Derivation of transport coefficient for *E.coli* losses from soil. 2011 International Microbiological Conference Proceedings.

⁴ Collins R., Donnison A., Ross, C., and McLeod M. (2004): Attenuation of effluent-derived faecal microbes in grass buffer strips. *New Zealand Journal of Agricultural Research*, 47, 565-574.

4 Faecal contamination in the Bay of Plenty

Data from the summer bathing surveillance programme for rivers and streams is summarised in Figure 2. This shows that at least one third of the sites monitored regularly exceed the 'red alert mode' for bathing suitability.

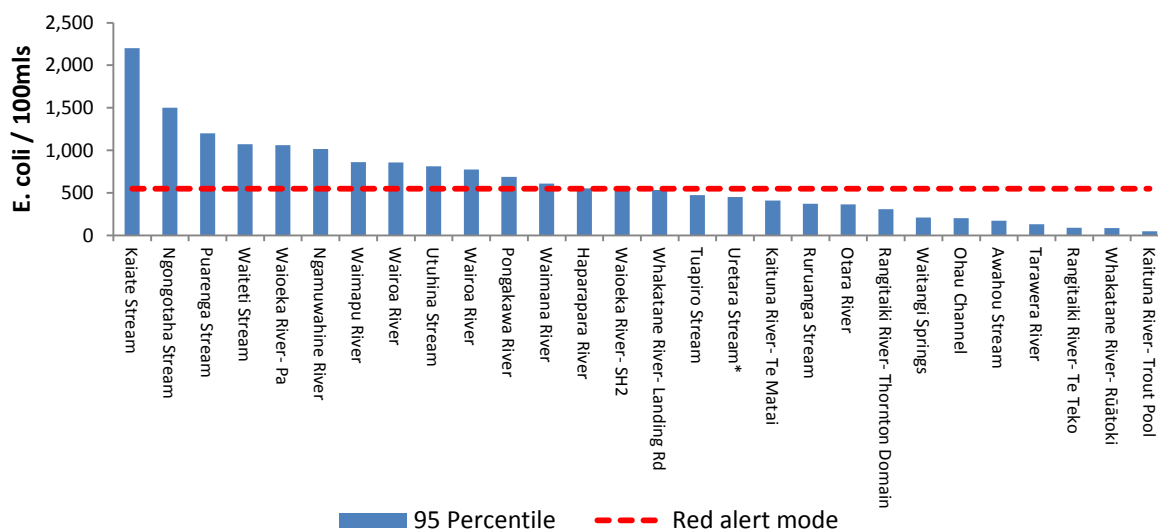


Figure 2: 5 year 95 percentiles (2007-2012) for streams monitored as part of the bathing surveillance programme.

Data from the river and stream water quality programme has also been analysed to determine long term trends and this information is summarised in Table 1. Of the 40 sites analysed eight have increasing trends in indicator bacteria levels and eight have decreasing trends. The remaining sites are stable (no trend) with a few having insufficient data to complete the analysis.

Table 1: Indicator bacteria trends for rivers and streams in the Bay of Plenty⁵.

River at site	E. coli	Enterococci	Faecal coliforms	Analysis Period
Eastern Bay of Plenty				
Raukokore at SH35				1990 - 2012
Harapapara at SH35				2003 - 2012
Motu at SH35		na	na	2005 - 2013
Motu at Waitangirua		na	na	2005 - 2013

⁵ Upward pointing arrow heads indicate increasing trends (▲) and downward decreasing trends (▼). Colour coding indicates whether the trends are meaningful and significant (greater than 1% change per annum) or just statistically significant: ▲ = meaningful increase; ▲ = significant increase; ▼ = meaningful decrease; ▼ = significant decrease; na = not analysed.

Otara at Browns Bridge	▲	▲	▲	1990 - 2012
Waioeka at Pa	▼	▼	▼	1995 - 2012
Nukuhou at Old Quarry	▼	▼	▼	1990 - 2013
Waimana at Tanetua Bridge				1990 - 2012
Whakatāne at Ruatoki				1990 - 2012
Whakatāne at Pekatahi			▼	1990 - 2013
Central Eastern/Rotorua				
Whirinaki				1989 - 2013
Rangitāiki at Murupara		na	na	2001 - 2013
Rangitāiki at Aniwhenua	▲		▲	1990 - 2012
Rangitāiki at Te Teko		▲		1990 - 2013
Tarawera at Outlet	▼	na	na	2001 - 2012
Tarawera at Boyce Park	▼		▼	1990 - 2013
Tarawera at Awakaponga	▼	na	na	1999 - 2012
Ohau Channel at SH33	▲	▲	▲	1990-2013
Kaituna at Okere	▲	▲	▲	1990-2013
Kaituna at Paeangaroa				1990-2013
Kaituna at Te Matai	▼	▼	▼	1990-2013
Ngongotahā at Town Bridge				1990-2013
Puarenga at Scion			▼	1992-2013
Pongakawa at SH2	▲	▲	▲	1990-2013
Pongakawa at Upstream				1999-2013
Waitahanui at SH2		▲		1995-2013
Tauranga Harbour				
Rocky at Mangatawa Lane				2001 - 2011
Waitao at Spensers Farm				1991 - 2013
Waimapu at Pukemapui				2001 - 2011
Kopurererua at SH29				2005 - 2013
Ngamuwahine at Old Bridge				1991- 2011
Omanawa at SH29				1990 - 2013
Wairoa at d/s Ruahihi	▲			1994 - 2011
Wairoa at SH2				2007 - 2013
Waipapa at Old Highway Bridge				1990 - 2011
Aongatete at SH2				2001 - 2011
Te Mania at SH2				1999 - 2013
Tuapiro at Surtees Rd				2001 - 2011
Uretara at Henry Crossing				2001 - 2011
Waiau at Waiau Road Ford				2001 - 2011

5 Case studies

The information on levels and trends in faecal contamination is used to prioritise catchments for further investigation. The following case studies summarise some of the work that has been done to identify contamination sources and put in place operational programmes to reduce the levels of contamination.

5.1 Kaiate Falls

The monitoring site at Kaiate Falls has shown the highest level of faecal contamination of those monitored under the bathing surveillance programme. Elevated levels of *E.coli* are often associated with rainfall as shown in Figure 3.

A catchment survey upstream of Kaiate Falls showed elevated faecal contamination from a number of tributaries, including one with extensive forest cover. While most of the catchment is in indigenous vegetation, two of the seven properties above the falls have completed Environmental Programmes and have full stock exclusion. To date 6.6km of stream margin have been protected through these two programmes. The Waitao-Kaiate Environmental Group undertakes regular riparian planting days at the fenced properties throughout each winter to enhance water quality and biodiversity. Approximately half of the farmed streams margins are still to be fenced. Monitoring will continue at this site to document future trends in faecal contamination levels.

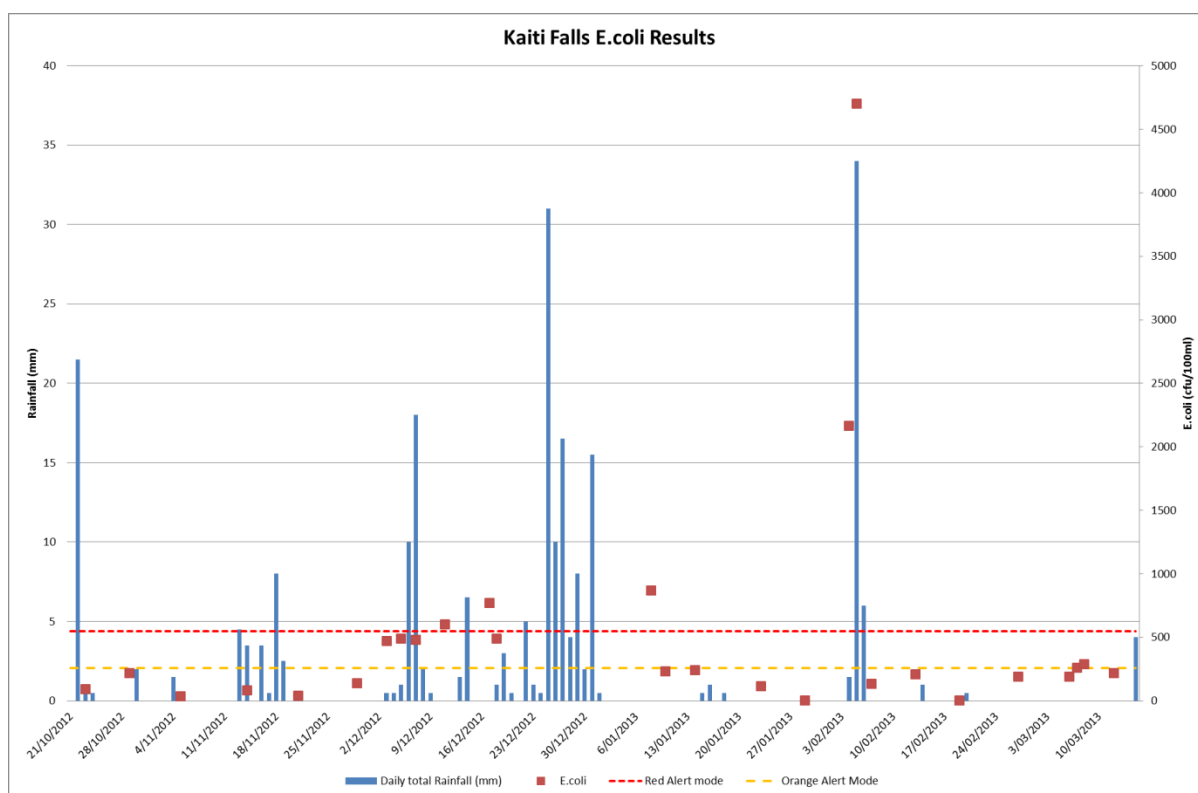


Figure 3: Kaiate Falls *E.coli* concentrations and daily total rainfall (Waimapu rain gauge).

5.2 Ngongotahā Stream

Rainfall events in the Ngongotahā Stream catchment have been shown to elevate faecal contamination in the stream and in Lake Rotorua (Figure 4). In 2007 elevated *E.coli* concentrations were found in Lake Rotorua at Ngongotahā just before peak flow levels had occurred in the stream. Surveys in the Ngongotahā Stream catchment have been inconclusive showing faecal contamination sources to be temporally and spatially variable.

The Ngongotahā catchment was a key focus for the upper Kaituna Catchment Control Scheme. Soil conservation works began in the 1970's and by 1990 five percent of the catchment had been retired. This included 90 percent of the Ngongotahā stream length, the Umurua and Otamaroa Streams, ephemeral waterways, headwater streams and wetlands, and erosion sensitive hill slopes. Retired stream banks varied from 2m width to 100m, but were usually less than 40m width.

Some of these riparian areas have been compromised by storm events causing bank erosion due to channel meandering, and large trees have caused bank stability issues.

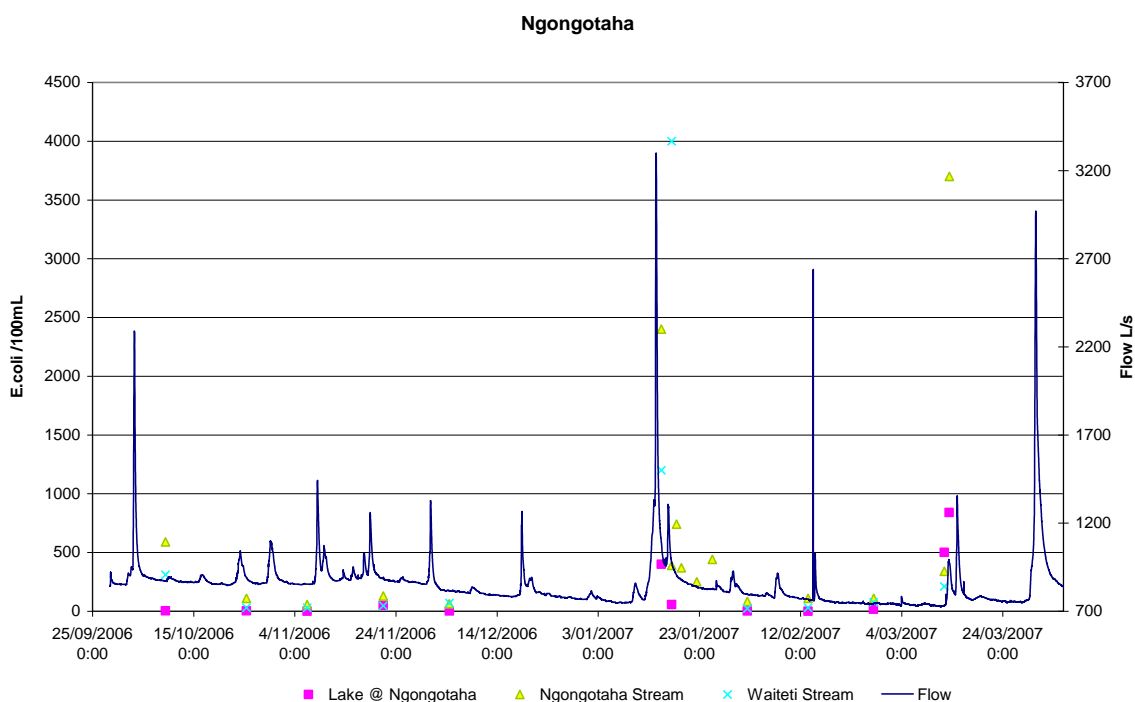


Figure 4: *E.coli* concentrations and flow in the Ngongotahā Stream at SH5⁶.

⁶ P. Scholes (2007): Bathing Suitability Report 2006/2007. Environment Bay of Plenty, Environmental Publication 2007/4.

5.3 Puarenga Stream

An investigation of the contribution of bacteria from a number of tributaries in the Puarenga Stream catchment was undertaken in 2000. While the main contamination came from the upper reaches of the catchment, contamination was found to be widespread with multiple sources.

Further catchment monitoring was undertaken in 2011. Dry weather contamination levels did not exceed the microbiological water quality guidelines while wet weather contamination levels increased dramatically (Figure 5). This information was also useful in understanding the relative contribution of different tributaries to faecal contamination levels.

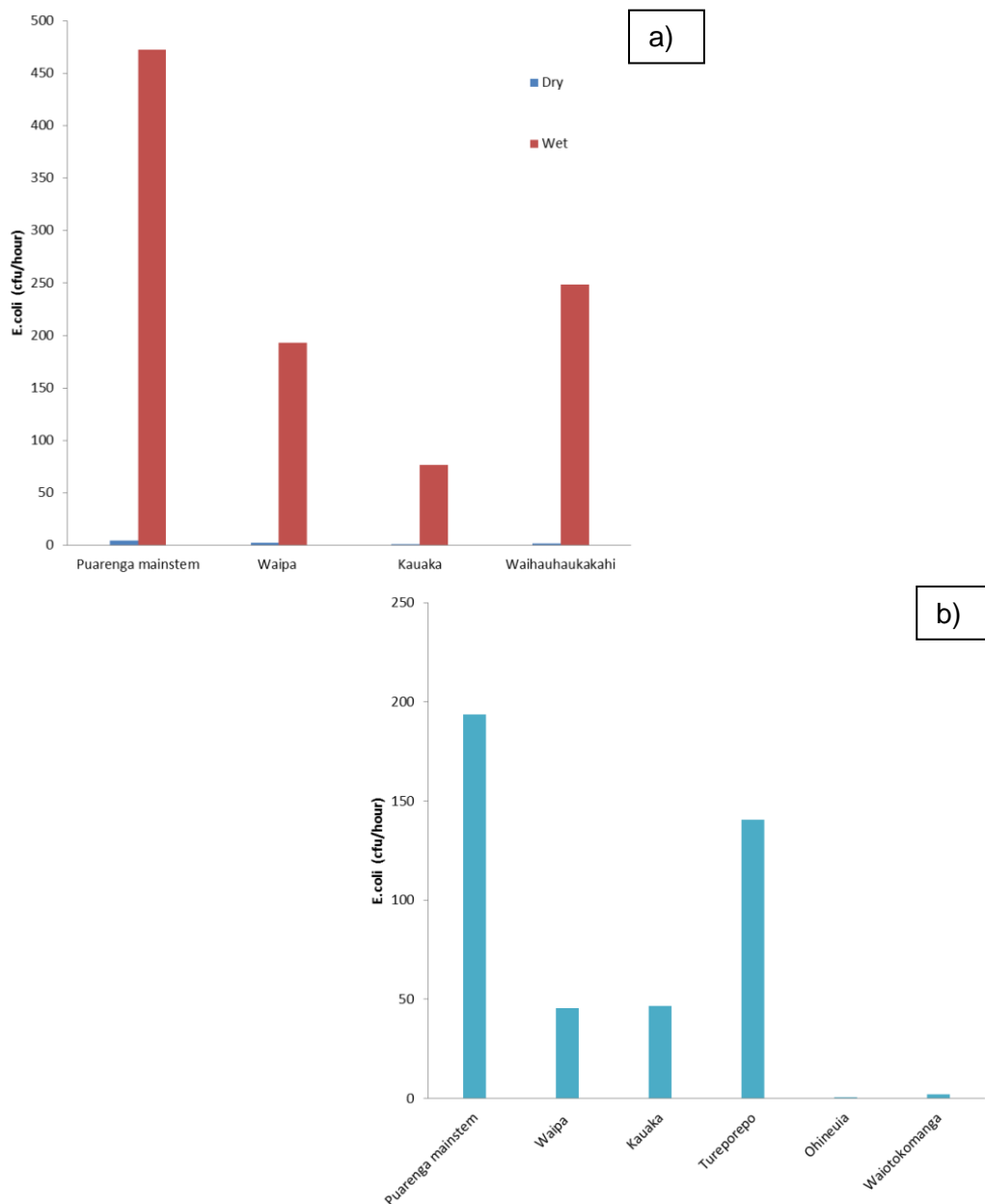


Figure 5: Estimated E.coli loads a) wet and dry conditions, June 2011; b) July 2011 after rainfall.

Microbial Source Tracking (MST), a new technique to identify the source of faecal contamination, has been used in the Puarenga catchment and preliminary results are discussed here. The lower Waipa Stream tested positive for the most common human marker, whilst in the upper catchment, where *E.coli* indicates the presence of faecal contamination, the human marker was not detected. A sample from the lower reaches of the Kauaka tested positive for a ruminant marker and the human Bacteroidales marker. The human source is likely be from the wastewater irrigation blocks located between the Kauaka and Waipa tributaries, while pastoral farming is undertaken at the head of the catchment explaining the ruminant marker.

Results from the Waitokomanga were positive for the ruminant marker, which is usual for an area dominated by dairy and beef farming. A human marker was also found, this is unusual, as there are few residences in this part of the catchment, and it is probably present due to a failing septic tank system. The Tureporepo was positive across all tested markers, implicating the landfill as a source of bacterial contamination, with disposal of many waste streams and a large transient population of gulls. Improvement to the landfill operation has seen a reduction in bacterial levels in stormwater but the gull population remains an issue. Work is continuing to improve the water quality leaving the site, including improvements to the leachate system.

While the MST technique has provided useful insight into contamination sources, further monitoring and testing will be necessary to confirm these results.

5.4 McLaren Falls

McLaren Falls is fed by tributaries of the Wairoa River, and has a history of elevated bacterial levels after rainfall events. Elevated *E.coli* levels generally occur after larger or sustained rainfall events. This is complicated by spilling from McLaren Lake which has the potential to add a large volume of water to the Wairoa River at intermittent periods not necessarily coinciding with rainfall events.

An analysis has been undertaken using the Waipapa rainfall data for 15 rainfall events that occurred over the period November 2003 to the beginning of 2007 (Figure 6). It shows that *E.coli* levels on average remain above the contact recreation guideline for six or more days from the start of the event. However, many of these events persist for several days and peak rainfall may not occur until 2-3 days into the event.

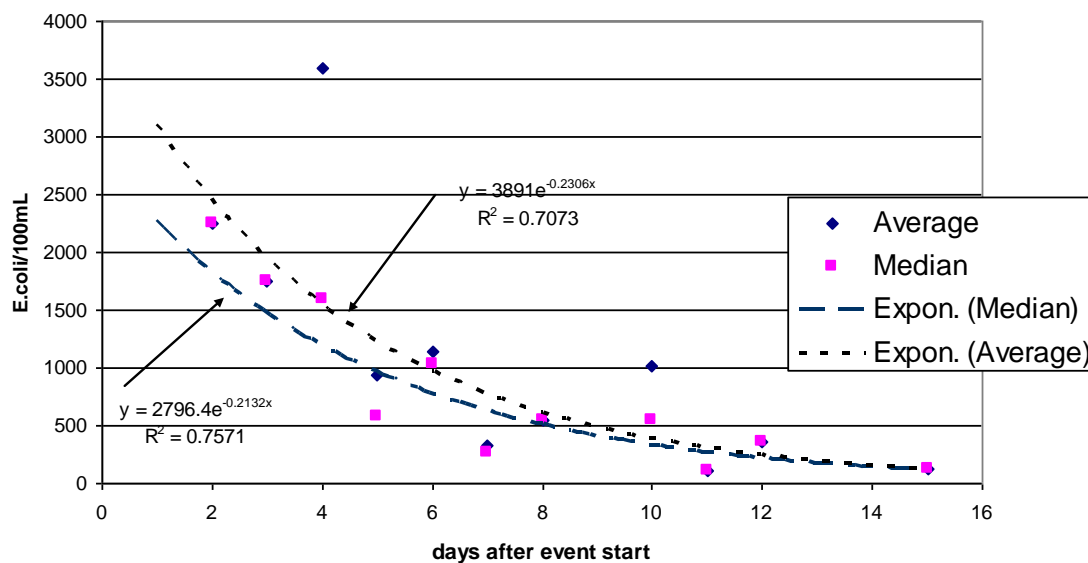


Figure 6: Rainfall event analysis of *E.coli* concentrations at McLaren Falls, 2003 to 2007.

It is likely that there are multiple contamination sources in the catchment. The results of monitoring on the Mangakarengorengo and Ngamuwahine tributaries suggest that both sub-catchments contribute strongly to the *E.coli* concentrations found at McLaren Falls.

These catchments have 39 km of stream length which is accessible to stock out of total length of 205 km. Over half of the catchment is covenanted or in indigenous vegetation. While the Bay of Plenty Regional Council has completed 27 Environmental Programmes no further programmes are currently occurring in the catchment.

6 Survey methods and costs

Research into the effects of rainfall on microbial water quality is typically designed to answer one or more of the following questions:

1. Impacts to recreational users, i.e. how long after a rainfall event is the waterway safe to swim in; and what size of rainfall generates a potential health alert?
2. What sources and/or activities are producing the microbial contaminants, and what is the size and contribution of these sources?
3. Are elevated faecal contamination levels (above recreational guidelines) rainfall induced, and if so where?

The case studies already discussed demonstrate some of the methods that can be used to understand the impacts of rainfall on faecal contamination and to identify sources. These and other methods are described further in Table 2 where costs estimates are given to survey a medium sized catchment (20-30 samples per sampling round). It is likely that a combination of these methods will be the most

effective in determining the spatial and temporal extent of faecal contamination as well as potential sources of contamination.

7 **Discussion**

Faecal contamination of rivers and streams is most commonly due to multiple diffuse sources from the land rather than from easily identifiable point sources. Monitoring in the Bay of Plenty has shown that a number of rivers and streams have contamination levels above recreational water quality guidelines and in some cases these levels are increasing. Higher levels of contamination can be expected during and following rainfall events and this further emphasises the importance of diffuse sources.

Management of contamination sources requires an in-depth understanding of catchment characteristics (e.g. soil type, slope, land cover) and the activities within the catchment, including pastoral farming, on-site wastewater disposal, solid waste disposal and urban development. Land management options that target critical source areas (e.g. riparian zones, ponding areas, stream crossings) will in the long term reduce the level of faecal contamination but will not eliminate it.

A range of research techniques are available to determine the sources of faecal contamination. These can also be used to support operational measures (such as riparian protection, land retirement etc.) by giving land owners and Council feedback on whether works are effective in reducing the run-off of faecal contaminants. The costs of these techniques are not insignificant (of the order of \$20,000-\$50,000 for a medium sized catchment) and investigations therefore need to be targeted at priority catchments.

Table 2: Research techniques and costs to investigate faecal contamination.

Technique	Strengths/benefits	Weaknesses/limitations	Estimated Cost
Catchment survey & existing rainfall/flow record	<ul style="list-style-type: none"> • Uses existing knowledge and infrastructure • Relatively inexpensive and easy to perform 	<ul style="list-style-type: none"> • Rainfall may not be representative • Flow measurement required for tributaries • Grab sampling methods can miss events • Stream reservoirs of bacteria can make interpretation of results difficult • Risk of inconclusive results • Likely to require repetitive monitoring to provide robust conclusions 	Medium sized catchment 10 sampling rounds ~ \$16,000-19,000
Catchment survey, measure rainfall/flow	<ul style="list-style-type: none"> • Accurate flow/rainfall measures • Relatively inexpensive and easy to perform with the added cost of automated flow/rainfall equipment installation 	<ul style="list-style-type: none"> • Flow measurement required for tributaries • Grab sampling methods can miss events • Stream reservoirs of bacteria can make interpretation of results difficult • Risk of inconclusive results • Likely to require repetitive monitoring to provide robust conclusions 	Medium sized catchment 10 sampling rounds plus telemetered or logger installation ~ \$21,000-26,000
Microbial source tracking	<ul style="list-style-type: none"> • Can detect specific animal/human sources 	<ul style="list-style-type: none"> • Requires elevated microbial presence to detect result • Detection of specific animal/human may not be accurate enough in the landscape context • Does not quantify the size of the source 	Medium sized catchment 5 sampling rounds ~ \$27,000
Kinematic wave source identification	<ul style="list-style-type: none"> • Identifies predominant pathogen sources through flow/concentrations methods 	<ul style="list-style-type: none"> • New method and unknown as to its usefulness – specialised field • Intensive monitoring data required • Source identification may not be specific enough • Requires auto-samplers, can be expensive and problematic 	Unknown but likely to be greater than \$30,000 per medium sized catchment
Stream sediment surveys	<ul style="list-style-type: none"> • Can identify source areas with intensive monitoring 	<ul style="list-style-type: none"> • Bacteria reservoirs can vary greatly over time • Dependant on substrate available • Can require intensive monitoring to be useful 	Medium sized catchment 10 sampling rounds ~ \$26,000
Modelling	<ul style="list-style-type: none"> • Can identify critical source areas and pathways for remediation 	<ul style="list-style-type: none"> • Data intensive • Requires in-depth data/knowledge of the landscape • Requires skilled operator in bacterial modelling • Risk of error 	Unknown but likely to be greater than \$50,000 per medium sized catchment

Paul Scholes
Environmental Scientist

for Science Manager

11 June 2013

File Reference: 4.01074
Significance of Decision: Receives Only - No Decisions



Report To: Operations, Monitoring and Regulation Committee

Meeting Date: 20 June 2013

Report From: Helen Creagh, Consents Manager

Quarterly Consents Update Report

Executive Summary

The purpose of this report is to update the Committee on Consents Section activity for the period 21 January 2013 (date since last report) to 25 May 2013.

1 Recommendations

That the Operations, Monitoring and Regulation Committee under its delegated authority:

- 1 Receives the report, Quarterly Consents Update Report.**

2 Activity Summary

The following applications have been processed by the Bay of Plenty Regional Council under delegated authority during the period 21 January 2013 to 25 May 2013. Details about these decisions are contained in Appendix One to this report.

	Current period 21 January 2013 to 25 May 2013	Previous period 14 October 2012 to 19 January 2013	Financial year 1 July 2012 to 25 May 2013
Notified decisions	0	2	3
Limited notified decisions	3	0	7
Non-notified decisions	157	100	368
Total decisions	160	102	378

Mean processing days for non-notified decisions	11.7	11	17
Mean end to end days for non-notified decisions	44.4	53.6	52.9
Percentage of non-notified consents processed within timeframes	100%	97%	99%
Consents refused	0	1	2
Certificates of Compliance issued	2	0	2
Certificates of Compliance refused	0	0	0
S357 Objections	1	0	0
Surrenders	32	164	212
Transfers	110	47	188

Other consents activity that has occurred during the period 21 January 2013 to 25 May 2013:

	Current period 21 January 2013 to 25 May 2013	Previous period 14 October 2012 to 19 January 2013
Applications received	159	123
Notified applications	3	1
Notified and limited notified hearings	6	2

The status of consent applications being processed:

	As at 27 May 2013	Previous report as at 23 January 2013
Application received	25	38

Notified applications under submission	0	1
Limited notified applications under submission	0	0
Further information required	35	41
Written approvals required	26	28
Section 37 time extensions	51	51
Section 91 other applications required	1	1
Withdrawal requested	0	1
Submissions closed (pre-hearing or hearing stage)	8	2

3 Consents Under Appeal

Applicant	Locality	Status	Reason for Appeal
TrustPower New Zealand Limited (65750)	Matahina Hydroelectric Power Station (HEPS) <i>Application for continued operation of a Hydro-Electric Power Station including a proposed change to the operating regime.</i>	Appeals by the Applicant and Regional Council's Environmental Hazards Group. A number of submitters have joined the appeals as interested parties. Court assisted mediations still in progress.	The Applicants appeal is wide-ranging, but essentially relates to restrictions on the operating regime of the HEPS. The Environmental Hazards Group appeal relates to mitigation of effects on the River Scheme they consider will occur as a result of the HEPS operation.
LDL Tauranga Limited (transferred from Heybridge Developments Limited).	Lochhead Road, Te Puna <i>Application for large scale earthworks</i>	Re-heard by the Environment Court in April 2013. New decision of the Environment Court	Appeals on the basis of cultural effects.

(65125 and 65126)		expected shortly.	
Ngāti Tūwharetoa Geothermal Assets Limited (66862)	Various locations within the Kawerau Geothermal Field <i>Application for the take, use and discharge of geothermal fluid within the Kawerau Geothermal Field.</i>	Appeals by Carter Holt Harvey Limited and SCA Hygiene. Pre-mediation Conference with Environment Court Judge scheduled.	Appeals relating to subsidence effects.

4 Trends

The graph in Appendix Two shows the number of incoming consent applications and outgoing decisions on a per month basis over the last four years. Six month moving averages are graphed for both sets of data. The graph shows that incoming applications have stabilised over the last quarter, which is expected heading into winter.

It is expected that application numbers will continue to increase overall as a result of applications to replace expiring consents, new plan provisions and an improving economy.

5 Resource Consent Application Hearings (2010-2013)

As part of this report I would also like to update the Committee on the procedures for appointing decision makers to hear and decide on resource consent applications that go to hearing.

Attached in Appendix Three is a report and recommendations prepared by Philips Fox and the Regional Council's Chief Executive in 2008 (adopted by Council then), which outlines a policy structure for managing appointments to consent application hearings. As recommended by that report a list of Independent Commissioners was adopted in 2009, updated in 2011 following Expressions of Interest being sought and added to earlier this year.

One aspect of note within the policy adopted by Council is that where the Regional Council or a Territorial Authority are the applicant for a resource consent, Independent Commissioners are appointed to hear and decide on the application. I also note that amendments to the Resource Management Act in 2009 enable a submitter or the applicant to request Independent Commissioners hear and decide on the application (under s100A), a request which the Regional Council must accept.

The table in Appendix Four provides the details of the hearings for resource consent applications which have been held over the past three years and who was appointed to hear and decide on them.

6 **Financial Implications**

Current Budget

An increase in revenue from application numbers will likely be matched by increased expenditure. Legal fees and staff resources associated with Court appeals remains the biggest challenge for controlling operating expenses. The budget for 2012-2013 remains on track, with decreased revenue matched by decreased expenditure.

Future Implications

As above.

Ten Year/Annual Plan Implications

As above.

Helen Creagh
Consents Manager

10 June 2013

APPENDIX 1

**130620 RMI decisions granted 20.01.2013 to 25.05.2013
pdf**

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
Non-notified Consents Approved				
67485	H and L Morrison	Discharge farm dairy effluent to pasture irrigation	573C Ohauti Road Ohauti Tauranga	24/5/2013
67482	E and R Merriman	Discharge dairy effluent to pond soakage	350 Whirinaki Road Galatea	22/5/2013
66989	RA Caverhill	Discharge dairy effluent to pond and land soakage	978 Manawahe Road Whakatane	22/5/2013
67503	Whakatane District Council	Install and test a bore	No.8 Road Ruatoki	21/5/2013
67502	Jolly Flats Limited	Install and test a bore	219 Jolly Road Murupara	20/5/2013
67443	SJ and JS Gebert	Large scale earthworks for quarry operations	2321 State Highway 2 Opotiki	20/5/2013
67497	Baygold Holdings Limited	Install and test a bore	700 Maniatutu Road Te Puke	16/5/2013
67499	Grays Funeral Services 2005 Limited	Install and test a bore	1384 Paradise Valley Road Ngongotaha	15/5/2013
67460	W2 Holdings Limited	Take and discharge geothermal fluid	1181 Pukaki Street Rotorua	15/5/2013
67456	BSCB Limited	Discharge farm dairy effluent to pasture irrigation	189 Kopuriki Road Galatea	14/5/2013
67415	New Zealand Oil Services Limited	Carry out earthworks and discharge stormwater to land or water	202 Totara Street Mount Maunganui	14/5/2013
67496	Veena Trust	Install and test a bore	257 Whakamarama Road Te Puna	13/5/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67256	Bay of Plenty Regional Council	Mechanical mangrove removal	Multiple locations within Tauranga Harbour Tauranga	13/5/2013
67478	CP Rotorua Limited	Take and discharge geothermal water and heat	273 Fenton Street Rotorua	9/5/2013
67322	Foxbay Properties Limited	Discharge dairy effluent to pasture irrigation	3713 State Highway 5 Napier/Taupo Road	9/5/2013
67461	Rotorua District Council	Install a geothermal bore	Corner Tutanekai Street and Pukaki Street Rotorua	8/5/2013
67459	Crown Forestry (MPI)	Carry out earthworks and clearance associated with harvesting	457 Matahi Valley Road Whakatane	7/5/2013
67490	Kaimai Developments Limited	Install and test a bore	2882 State Highway 2 Katikati	6/5/2013
67466	RP and EM Perkinson	Discharge dairy effluent to pasture irrigation	268 Greig Road Whakatane	6/5/2013
67419	Waterside Dairies Limited	Take surface water for dairy shed use	556 Ridge Road Te Puke	1/5/2013
67418	Waterside Dairies Limited	Discharge dairy effluent to pasture irrigation	556 Ridge Road Te Puke	1/5/2013
67290	Richardson, Parrish, Cossens and Smallman	Take and discharge geothermal fluid for domestic use	67-77 Ranolf Street Rotorua	1/5/2013
67476	Truck Wash Tauranga Limited	Install and test a bore	16 MacDonald Street Mount Maunganui	26/4/2013
67467	J Pringle	Excavate and remove contaminated soil	282 Cambridge Road Tauranga	26/4/2013
67450	PH and JW Goes Family Trust	Take water from a bore for irrigation and frost protection	10 Melville Road Whakatane	26/4/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67449	Supermoo Limited	Discharge dairy effluent to pasture irrigation	4 Golf Road Murupara	26/4/2013
67147	JL Murray and Sons Limited	Discharge dairy effluent to pasture irrigation	177B Grieve Road Onepu-Otakiri	26/4/2013
67435	New Zealand Transport Agency	Reline culvert steel pipe with concrete	Tureporepo Culvert State Highway 30 Rotorua	22/4/2013
67266	Broeksrund Limited	Discharge dairy effluent to pasture irrigation	1840 Troutbeck Road Galatea	22/4/2013
67468	JA Enekevort	Install and test a bore	2551 State Highway 2 Opotiki	16/4/2013
67377	Lakeland Queen (2006) Limited	Jetty (A129) on Lake Rotorua	Rotorua Lakefront Rotorua	16/4/2013
67439	Wood Marketing Services	Forest harvesting and associated stormwater discharge	Harray Road (off No.3 Road) Te Puke	15/4/2013
67464	K and D Epple	Install and test a bore	108 Plummer Road Omokoroa	11/4/2013
67447	Pine Valley Orchards Limited	Large scale earthworks for building platform and stormwater discharge	Lemon Road Paengaroa	11/4/2013
67438	W and P Partners (2011) Limited	Take and discharge geothermal water and heat for commercial use	279 Fenton Street Rotorua	11/4/2013
66731	Bay of Plenty Regional Council	Install up to 3 floating debris traps	Utuhina Stream Rotorua	11/4/2013
67428	Macaulay Properties Limited	Earthworks to install stormwater treatment system	73 Old Taupo Road Rotorua	10/4/2013
67425	DSM Investments Limited trading as Mana Adventures Limited	Lake Rotorua structures (A160 – A160I)	Rotorua Lakefront Rotorua	10/4/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67462	Te Ranga Primary School	Install and test a bore	1492 Te Matai Road Te Puke	9/4/2013
67452	Morton Estate Wines Limited	Discharge stormwater from buildings and car park	Morton Estate Cellar Door 2389 State Highway 2 Aongatete	9/4/2013
67453	D and T Hodder	Discharge farm dairy effluent to pasture irrigation	72 Benner Road Te Puke	8/4/2013
67239	Western Bay of Plenty District Council	Beach restoration works	Te Kopa O Te Hotu Reserve Lindoch Avenue and Ongare Point	5/4/2013
67407	Chevron New Zealand	Dewater pit for installation of tank	71 Vaughan Road Rotorua	4/4/2013
67402	The Thorne Family Trust	Large scale earthworks to remove preload material	St Pauls Drive Judea Tauranga	4/4/2013
67361	Department of Conservation	Large scale earthworks to create a wetland	Steele Road Athenree	3/4/2013
67437	RKJ Allen	Discharge dairy effluent to pond soakage and pasture irrigation	4680 Galatea Road Murupara	27/3/2013
67434	Volcanic Air Safaris Limited	Jetty (A17) and moorings (A17A, B and C)	Memorial Drive Rotorua	27/3/2013
67392	G and A Oliver	Discharge dairy effluent to pasture irrigation	Putiki Road Edgecumbe	27/3/2013
67364	Kawarau Jet Rotorua Limited	Jetty (A38) on Lake Rotorua	Memorial Drive Rotorua	27/3/2013
67442	Ngai Te Rangihouhiri Hapu Committee	Discharge onsite effluent to ground soakage	30B Thornton Road Whakatane	26/3/2013
67387	LC Pinfold	Boatshed (G17) on Lake Okareka	Lake Okareka Rotorua	26/3/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67327	CT Harper	Discharge dairy effluent to pasture irrigation	97 Ngamotu Road Rerewhakaaitu	26/3/2013
67422	J Steadman	Works to install a bridge	173 Tuite Road Waimana	22/3/2013
67410	GL Munro	Discharge dairy effluent to pasture irrigation	Tawhia Road Whakatane	22/3/2013
67448	Ocean Ridge Trust	Install and test a bore	591 Paerata Ridge Road Opotiki	20/3/2013
67401	Envirowaste Services Limited	Discharge stormwater to land and water	55 Truman Lane Te Maunga Tauranga	20/3/2013
67339	C'Denco Limited	Take water from a pond for irrigation and frost protection	1273 Old Coach Road Pongakawa	20/3/2013
67426	Osborne Curtis Farms Limited	Discharge farm dairy effluent to pasture irrigation	62 Ngamotu Road Rerewhakaaitu	19/3/2013
67433	Whakatane District Council	Earthworks associated with stormwater improvements	Hillcrest Road Whakatane	15/3/2013
67432	Department of Conservation	Large scale earthworks for car park	Tarawera Road Rotorua	14/3/2013
67406	IW MacPherson	Take groundwater for irrigation and frost protection	245 Walker Road East Katikati	14/3/2013
67366	Gravel Lock New Zealand Limited	Discharge to roads for dust suppression	Local authority roads throughout the Region	13/3/2013
67420	Whakatane District Council	Permanent stormwater discharge to water	Sullivan's Lake 191 King Street Whakatane	12/3/2013
67409	Whakatane District Council	Discharge stormwater to an open drain	98B College Road Edgecumbe	12/3/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67355	Awakeri Quarries Limited	Earthworks and erosion protection works	State Highway 30 Awakeri	12/3/2013
67301	Jason Mather Construction Limited	Large scale earthworks to create three house sites	Pongakawa Valley Road Pongakawa	11/3/2013
67383	Youth Hostels Association of New Zealand Inc	Take and discharge geothermal heat for commercial use	1196 Ranolf Street Rotorua	8/3/2013
67376	Keejak Trust	Discharge dairy effluent to pond soakage and pasture irrigation	363 Hydro Road Edgecumbe	8/3/2013
67374	Raroad Farm Limited	Discharge dairy effluent to pasture irrigation	219 Raroa Road Waimana	8/3/2013
67372	Scotty and Kay Muir Family Trust	Discharge dairy effluent to pond soakage	5272 Galatea Road Galatea	8/3/2013
67370	Janal Farms Limited	Discharge dairy effluent to pasture irrigation	Troutbeck Road Galatea	8/3/2013
67424	Bay of Plenty Regional Council	Install and test four bores	77 Castles Road Oropi Tauranga	6/3/2013
67412	RM Donald	Discharge dairy effluent to ground soakage and pasture irrigation	397 Maungarangi Road Paengaroa	6/3/2013
67391	Mighty River Power	Construct an access road and drilling pad	Taheke	6/3/2013
67354	Comvita New Zealand Limited	Discharge onsite effluent to ground soakage	Wilson Road South Paengaroa	6/3/2013
67343	R Fleming	Large scale earthworks associated with landfill	62 Te Manu Road Rotorua	6/3/2013
67404	W Parry on behalf of PNF Partnership	Discharge onsite effluent to ground soakage	1646 State Highway 2 Kutarere	4/3/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67324	Alan and Sharmaine Keys Family Trust Partnership	Earthworks associated with harvesting	450 Tirohanga Road Opotiki	1/3/2013
67427	E Koopu	Install and test a bore	3745 State Highway 35 Maraenui Opotiki	28/2/2013
67379	Kapenga M Trustee Company Limited	Take geothermal fluid/energy and discharge via reinjection	1236 Haupapa Street/1194 Amohia Street Rotorua	28/2/2013
67373	Angbro Trust	Take groundwater for irrigation and frost protection	683 State Highway 2 Kutarere	28/2/2013
67429	Ohiwa Beach Water Society Inc	Install and test a bore	9 Bryans Beach Opotiki	27/2/2013
67400	Elpee Trust	Ramp (B285) on Lake Rotoiti	Lake Rotoiti	27/2/2013
67346	Tauwhao Te Ngare Trust	Discharge onsite effluent to ground soakage	Rangiwaewa Marae Rangiwaewa Island	27/2/2013
67378	Arbour Park Limited	Discharge dairy effluent to pasture irrigation	61 Ohutu Road Galatea	26/2/2013
67325	FJ Nettleingham	Discharge dairy effluent to pasture irrigation	228 Matahui Road Aongatete Katikati	26/2/2013
67212	H Verseput	Large scale earthworks for holiday park and discharge stormwater	2 Papamoa Beach Road Papamoa	26/2/2013
67423	A and N Warren	Install and test a bore	29 Wintrebre Lane Tauriko	25/2/2013
67360	DM Signal	Discharge dairy effluent to pond soakage	206 MacDonald Road Te Teko	25/2/2013
67288	New Zealand Transport Agency	Alter the alignment of State Highway 2	State Highway 2 Arden Cottage Curves	22/2/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67353	Comvita New Zealand Limited	Earthworks to redevelop campus site	Wilson Road South Paengaroa	21/2/2013
67271	JD Rai and Whakaue Apartments Syndicate	Take and discharge geothermal fluid/heat	1101 Fenton Street Rotorua	21/2/2013
67192	Ministry of Education	Discharge pool water to water	Corner Tui Street and Beatty Ave Te Puke	20/2/2013
67413	Concorde Trust and Ruby Tuesday Trust	Install and test a bore	572 Pyes Pa Road Tauranga	19/2/2013
67185	Scholtens Farms Limited	Discharge dairy effluent to pasture irrigation	223 Matahi Valley Road Waimana	18/2/2013
66051	Opotiki District Council	Earthworks on sand dune country	Sewage Reserve Waioeka Estuary and Snells Beach Opotiki	18/2/2013
67323	Trustpower Limited	Discharge stormwater	199L Truman Lane Tauranga	15/2/2013
67385	GA Dohnt	Platform (C7) on Lake Rotoehu	11A Chingford Road Lake Rotoehu	14/2/2013
67356	Estate of KH and BM Sullivan	Discharge dairy effluent to pasture irrigation	141 McCracken Road Whakatane	14/2/2013
67337	AB Bobcats Limited	Discharge onsite effluent to ground soakage	77 Phillips Drive Oropi Tauranga	13/2/2013
67405	Connor Bros Limited	Install and test a bore	18 McGinleys Road Ohope	11/2/2013
67396	D and T Bull Limited	Install and test a bore	889 Braemar Road Whakatane	11/2/2013
67394	ID and AM Crisp	Install and test a bore	66 Pokare Road Te Puke	11/2/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67344	Strongline Builders Limited	Large scale earthworks to shape an industrial site	Corner Truman Lane and Tip Lane Tauranga	11/2/2013
67329	Western Bay of Plenty District Council	Erosion protection sea walls	Omokoroa Peninsula foreshore	11/2/2013
67398	MJ Holdaway	Install and test a bore	State Highway 35 Waihou Bay	8/2/2013
67397	D and P Steele	Install and test a bore	Ohiwa Loop Road Opotiki	8/2/2013
67386	Cawte Farms Limited	Install and test a bore	34 Pongakawa Bush Road Te Puke	8/2/2013
67274	Taheke Marae	Construct a timber retaining wall	119 Okere Road Okere Falls Lake Rotoiti	8/2/2013
67393	A and T Stokes	Install and test a bore	515 Joyce Road Pyes Pa Tauranga	7/2/2013
67320	KF Winstone and JM Hanson	Discharge onsite effluent to ground soakage	185 Spencer Road Lake Tarawera	7/2/2013
67389	RJ Jessop	Install and test a bore	24 Lambert Road Whakatane	5/2/2013
67380	Lakes Care Holdings Limited and Proprietors of Rotoma No 1 Block	Install a geothermal reinjection bore	Corner Tutanekai and Arawa Streets Rotorua	5/2/2013
67349	New Zealand Transport Agency	Earthworks for road improvement works	State Highway 36 between RP4/7.4 to RP4/9.16	4/2/2013
67369	P and P Isley	Discharge dairy effluent to pasture irrigation	1794 Troutbeck Road Galatea	1/2/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67306	OTPP New Zealand Forest Investments Limited	Forest harvesting	Pinehill Forest State Highway 33 Okere Falls Rotorua	1/2/2013
67365	DW Gordon	Discharge dairy effluent to pasture irrigation	304 Wilson Road North Te Puke	31/1/2013
67332	Te Kura o te Moutere o Matakana	Discharge onsite effluent to ground soakage	183 Opureroa Road Matakana Island	30/1/2013
67291	CA and KG Clemance	Take groundwater for irrigation and frost protection	2475 Waioeka Road Opotiki	30/1/2013
67260	Rotorua District Council	Erosion protection works	0-1.3 km Paradise Valley Road Rotorua	30/1/2013
67244	R and F Shaw	Discharge dairy effluent to ground soakage	174 Waitaruna Road Galatea	30/1/2013
67203	JAS Family Trust	Discharge dairy effluent to pasture irrigation	625 Otamarakau Valley Road Otamarakau	30/1/2013
67314	C and J Wara and C Moore	Take and discharge geothermal water for domestic use	830B Te Ngae Road Rotorua	29/1/2013
67302	AJ Schuster	Discharge dairy effluent to pond soakage	374 Ash Pit Road Rerewhakaaitu	29/1/2013
67363	Warren and Bronwyn Lewis Family Trust	Jetty (B89), ramp (B89A) and wall on Lake Rotoiti	1295J State Highway 30 Gisborne Point Rotoiti	25/1/2013
67275	JAS Family Trust	Take water from Otamarakau Stream for irrigation	625 Otamarakau Valley Road Otamarakau	25/1/2013
67251	Wyndlea Farms Limited	Discharge dairy effluent to pasture irrigation	300 West Bank Road Whakatane	25/1/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67250	Wyndlea Farms Limited	Discharge dairy effluent to pasture irrigation	56 West Bank Road Whakatane	25/1/2013
67347	Kapuke Land Company Limited	Discharge dairy effluent to pasture irrigation	265 Otamarakau Valley Road Pongakawa	24/1/2013
67336	PD and RL Askey	Discharge dairy effluent to ground soakage and pasture irrigation	151 Putiki Road Edgecumbe	23/1/2013
67305	OTPP New Zealand Forest Investments Limited	Forest harvesting	Foley Forest Litchstein Road Rotorua	22/1/2013
67367	Omanawa Farms Limited	Install and test a bore	Ngawaro Road Rotorua	21/1/2013
67303	Grays Funeral Services 2005 Limited	Discharge onsite effluent to ground soakage	Corner Henderson and Ngongotaha Roads Rotorua	21/1/2013
67237	Norske Skog Tasman Limited	Discharge to land and air from vermicomposting operation	Tasman airstrip Kawerau	21/1/2013
Non-notified changes approved				
61662	SM and JA McHardy	Add standoff pad to the conditions of the consent	490 Matata Road Matata	15/5/2013
61329	Ashfield Limited	Changes to conditions of effluent discharge consent	1193 Ash Pit Road Rerewhakaaitu	8/5/2013
20071	Port of Tauranga Limited	Change to conditions of water take consent	Tasman Quay Mount Maunganui	2/5/2013
62867	Motiti Avocados Limited	Change conditions to allow for alternative rock source	Wairere Bay Motiti Island	29/4/2013

Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67349	New Zealand Transport Agency	Change conditions to extend works period.	State Highway 36, between RP4/7.4 to RP4/9.16 Tauranga	26/4/2013
67116	Fulton Hogan Limited	Change conditions of air discharge consent to allow for alternative plant.	Poplar Lane Papamoa	22/4/2013
62862	Western Bay of Plenty District Council	Change conditions of seawall consent.	From Bowentown to Wairoa River Western Bay Coastline	5/4/2013
66677	Kiwi Bus Builders Limited	Change conditions associated with air discharge consent.	26 Whakakake Street Tauriko Tauranga	15/3/2013
64619	H and W Williams	Add an existing unconsented platform to the consent.	1483 State Highway 30 Rotorua	15/3/2013
66150	Greenland Farms Limited	Change conditions of effluent discharge consent to allow for increased herd size.	949 White Pine Bush Road Pekatahi Whakatane	14/3/2013
67246	Rep.89 Merrick Road Committee	Allow for another two months to complete construction works.	89 Merrick Road Pyes Pa Tauranga	11/3/2013
63137	AL Rowe	Add feed pad to existing consent to discharge farm dairy effluent.	Woodlands Road Opotiki	6/3/2013
64370	DP and NE Hurst	Include a boat ramp in the consent.	Adjacent to 100B Te Akau Road Lake Rotoiti	27/2/2013
62779	Transpower New Zealand Limited	Change conditions to allow for alternative monitoring frequency.	Various locations Region wide	22/2/2013
62878	Tauranga City Council	Change conditions of consent to allow for alternative deadline.	Papamoa Beach Tauranga Harbour	22/2/2013
64194	TK MacKay, ML Clarkson and G and M Gentile	Change consent conditions to update structure details.	10/12 Okawa Bay Road Lake Rotoiti	18/2/2013

Consent decisions issued from 21 January 2013 to 25 May 2013				
Consent	Applicant	Purpose	Location	Decision Date
63179	Opotiki District Council	Change consent conditions to allow for modified system.	Sewerage Reserve Waioeka Estuary and Snells Beach Opotiki	18/2/2013
64100	MRL and JAC Avertill and Inder Lynch Trustee Co Limited	Include a slipway in the consent.	66 Acacia Road Lake Okareka	15/2/2013
67057	Manaia Orchards Trust	Change consent conditions to include appropriate limits.	798 Oropi Road Oropi Tauranga	7/2/2013
66813	Corona Farms Limited	Change consent conditions to allow for increased herd size.	46 Otakiri Road Edgecumbe	29/1/2013
65462	TJ and GA Hunter Limited	Change consent conditions to allow for amended stormwater system design.	R410 Ohauti Road Tauranga	29/1/2013
20981-1	IR Hardie	Change conditions of consent to reduce daily quantity of water taken.	Otakiri Road Edgecumbe	23/1/2013
66207	Pahtuna Farms Limited	Change consent conditions to allow for increased herd size.	301 Pah Road Te Puke	21/1/2013
Limited Notified consents approved				
65921	Schlepers Holdings Trust	Take surface water for irrigation and frost protection	469 West Bank Road Edgecumbe	23 April 2013
66800	Transpacific Technical Services New Zealand Limited	Discharge to air from liquid waste site	31 Gateway Drive Whakatane	10 April 2013
67150	SCA Hygiene Australasia Limited	Discharge wastewater to Tarawera River	Spencer Ave Kawerau	6 March 2013
Certificates of Compliance approved				
67451	Transpower New Zealand Limited	Discharge stormwater to land soakage	Hydro Road Edgecumbe	3 April 2013

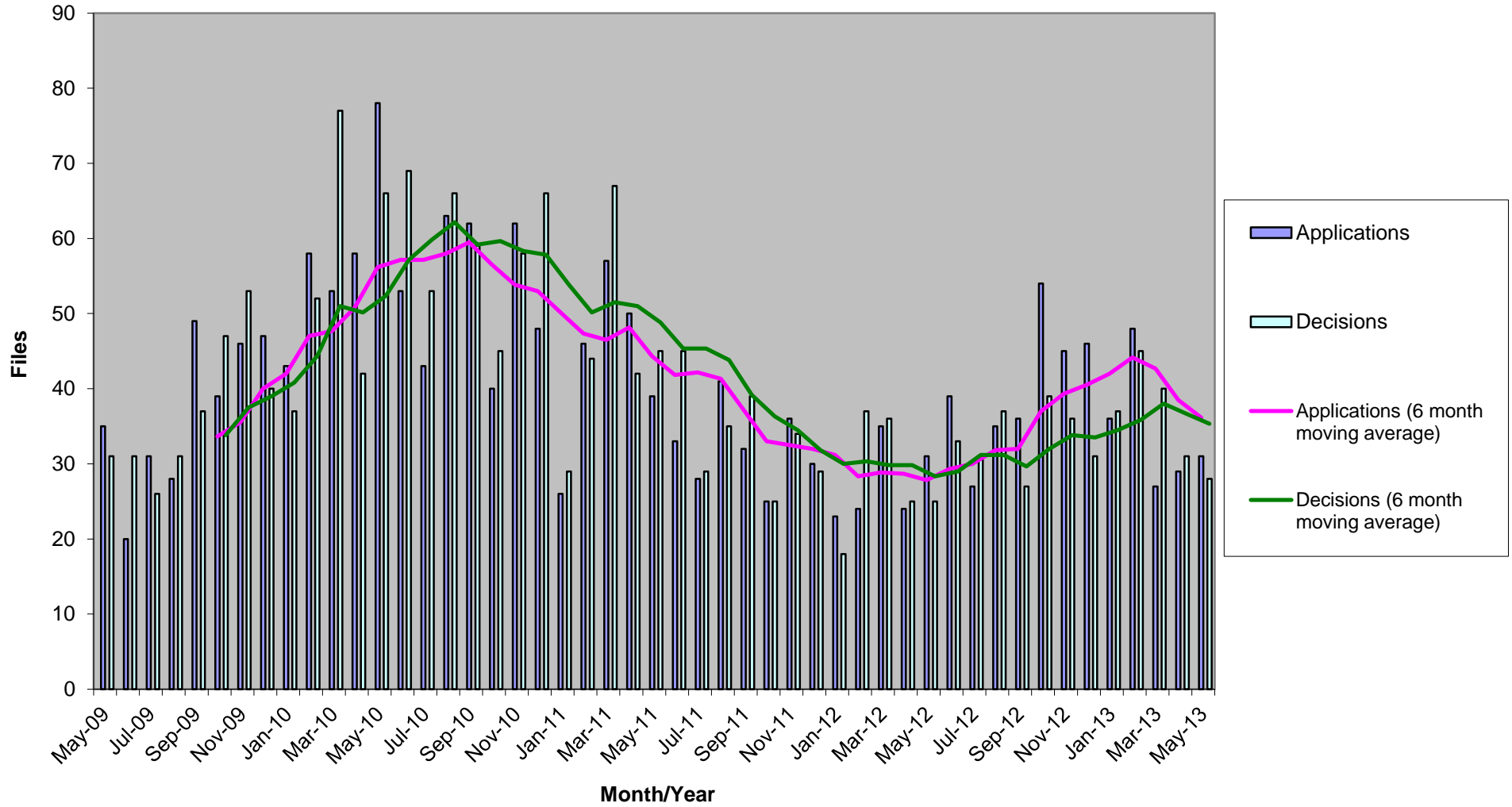
Consent decisions issued from 21 January 2013 to 25 May 2013

Consent	Applicant	Purpose	Location	Decision Date
67445	Groundbond Limited	Dust suppression and stabilisation	Bay of Plenty Region	2 April 2013

APPENDIX 2

130620 Graph of incoming and outgoing monthly application numbers

Application and Decision Tracking



APPENDIX 3

Council Hearing Process Report

9111

Environment Bay of Plenty

Report From: Bill Bayfield
Chief Executive

Date: 30 April 2008

File Reference: 1240 H01, 1370 00

The Chairman and Members

Bay of Plenty Regional Council

Meeting of 15 May 2008

Council Hearing Processes

The purpose of this report is to provide recommendations to the Council on how to structure its management of appointments to hearings.

1 Introduction

Recently a request was made by both the Regulation, Monitoring & Investigation Committee and the Strategic Policy Committee for staff to report back on the processes around appointments to both consent and policy hearing panels.

This request recognises that the current drivers towards making our processes both in planning and consents more robust and more efficient are:

- The growth of Council's business as a regional leader following its broadened functions in the Local Government Act (LGA) 2002.
- The significant policy and planning work load anticipated over the next two years on the following:
 - Regional Policy Statement (RMA)
 - Regional Coastal Environment Plan (RMA)
 - Ten Year Plan (LGA)
 - Annual Plans (LGA)
 - Regional Land Transport Programme (LTMA)
 - Regional Pest Management Strategies (BSA)
 - Various other Strategies (RMA and LGA)

- The increased demand for high level decision making on strategic regional issues, e.g. Broadband and Economic Development.
- The incentive to ensure efficient and robust consent decision making.

We have therefore commissioned the attached report from Helen Atkins, a partner with Phillips Fox and a very experienced figure in RMA and LGA matters, to make recommendations on how best to improve our processes around Council hearings.

The report has explored and recognised the significant difference between hearings on policy, planning or strategic matters under various statutes (including the LGA, RMA and LTMA) and hearings on consents under RMA. In short, the report confirms the role of elected councillors (accredited under the RMA or not) in making decisions on policy, planning or strategic issues. The use of commissioners should be restricted to technical matters or conflict of interest situations. The role of establishing such committees or panels should remain with the Strategic Policy Committee.

The report, however, makes recommendations for significant change in the way we manage and constitute hearings for consents. The report (at paragraph 13) notes the amendments to the RMA driving change and Helen Atkins sets out in paragraph 28 her views as to the reasons for the trend towards increased use of commissioners. Certainly for this Council while we should retain the full range of options of qualified councillors or commissioners, and combinations of the two, one of our key drivers towards increased use of commissioners must be the significant body of policy planning and strategic workload facing the Council over the next two years.

The report concludes with the recommendations, paragraph 41 to 45, for procedures, protocols and delegations. Staff have considered these recommendations carefully and recommend Council adopt them as set out below.

Recommendation

That the Regional Council:

- 1 Receives this report, *Council Hearing Processes*.**
- 2 Notes that the decisions recommended below have been assessed in accordance with Environment Bay of Plenty's Policy on Significance as having a low degree of significance.**
- 3 Confirms its commitment to best practice for consents hearings by generally adhering to the "Making Good Decisions" processes and procedures, in particular as outlined in Appendix B of the Phillip Fox report.**
- 4 Adopt the protocol set out in Appendix C of the Phillip Fox report.**
- 5 Makes the delegations as outlined in Appendix D of the Phillip Fox report.**
- 6 Directs staff to report to the Regulation, Monitoring & Investigation Committee a list of commissioners for the purposes of inserting a list of commissioners into appendix D.**
- 7 Appoints, as a matter of policy, Commissioners for consent hearings that meet the exception criteria outlined in the table in Paragraph 46.**

- 8 Reaffirms the delegation to the Chair Regulation & Monitoring to decide, in consultation with the Group Manager Water Management, the makeup of hearing panels.
- 9 Reaffirms the delegation to the Strategic Policy Committee to decide the makeup of hearings panels.



Bill Bayfield
Chief Executive

Report to Environment Bay of Plenty on Hearing Committees

Introduction

- 1 In this report I consider the nature and make up of the hearing committees used by Environment Bay of Plenty (**EBOP**).
- 2 In this report I refer to the phrase 'hearing committee/s'. In using the term committee I am not referring to a sub-committee of Council.
- 3 While this report is primarily focussed on hearing committees under the Resource Management Act 1991 (**RMA**) there are a multitude of hearings that Council conducts under a variety of statutes. EBOP has a number of wide functions well beyond what is required of it under the RMA. These include functions in the area of land transport and biosecurity as well as the encompassing powers under the Local Government Act 2002 (**LGA**). The RMA functions of the Council, while still very important, are really subsidiary to the requirements of the LGA in relation to the setting of community outcomes and long term financial planning in the Long Term Council Community Plan, or 10 year Plan.
- 4 I will cover the following information:
 - 4.1 the current nature and make up of EBOP's hearings committees;
 - 4.2 the historic context and the recent changes to the RMA relevant to this topic;
 - 4.3 the LGA process and relevance of the Local Government Official Information and Meetings Act 1986 (**LGOIMA**);
 - 4.4 comments on the approaches being taken by other Councils;
 - 4.5 recommendations in relation to EBOP practices.

EBOP hearing committees

- 5 Like most Councils EBOP tend to distinguish between those hearings that are focusing on resource consents and those that deal with RMA planning and policy matters and those dealing with non-RMA planning a policy matters.
- 6 In the policy and planning area there are several different types of hearing as follows:
 - hearings conducted under the LGA that are concerned with LGA policies and strategy/planning documents such as the Annual Plan and 10 Year Plan (or LTCCP);
 - hearings conducted under the RMA that are concerned with RMA policy and planning documents such as the Regional Policy Statement;
 - hearings conducted to hear non-statutory matters such as strategies for Ohiwa Harbour, Tauranga Harbour, Recreation Strategy or the Rotorua Lakes action pla

- hearings conducted under other Acts such as the Land Transport Act and the Biosecurity Act 1993 (in relation to pest management strategies).
- 7 In the consents area there are also different types of hearing as follows:
- Joint plan and consent hearings with most of its territorial authorities (TA). As required by the RMA EBOP is the lead agency unless the nature of the issue is such that the TLA ought to be the lead agency;
 - hearings under the RMA for resource consent applications.
- 8 The make up of the hearings committees for all aspects of the planning and policy area is generally councillors. The number of members of each hearing committee varies depending on the issues being considered but the minimum number is usually 3 members.
- 9 The EBOP delegations for the planning and policy area are that all members of the Strategic Policy Committee are able to sit on hearings committees. The decision as to who sits on what committee has not formally been delegated and is generally determined by the whole Strategic Policy Committee
- 10 The planning and policy area has, on occasion, used independent hearings commissioners when this is required. The main reason given for the use of an independent hearings commissioner sitting alone is to deal with conflicts that the Council has had, such as Change 2 to the Regional Policy Statement that was dealing with the Growth Strategy issues. In the particular example given the independent hearings commissioner sat alone to hear submissions relating to business land. In addition because of the length of time it can take to undertake plan and policy reviews it is often necessary to delegate the task of the hearing of these matters to hearing commissioners due to spanning new council terms. It is common practice to appoint the councillor committee into the role of hearings commissioners for this purpose. Independent commissioners with specific technical expertise have been appointed on occasion.
- 11 The make up of the hearings committees for resource consents varies from the use of all councillor committees to a mix of councillor and independent commissioners to independent commissioners sitting on their own.
- 12 The EBOP delegations for the resource consent area are that all members of the Regulation Monitoring and Investigation Committee that have been accredited are entitled to sit on a hearings committee. The decision as to who sits on what consent hearings committees has been determined a number of different ways in the past, from subcommittee to entire committee to decisions by the Chair. The latter has become the practice in the last few months pending the review of the management of committees and the delivery of this report on the issues.

The RMA and relevant amendments

- 13 In 2003 and again in 2005 the RMA was amended to change the way in which hearings committees were constituted and managed. Significant emphasis was placed on the need for good quality decision makers and to provide greater emphasis on more efficient, timely anPage 175 of 210ns. The Ministry for the Environment

Information Sheet on the amendments at the time noted that the amendments were to address concerns about resource consent decision-making, including:

- Lack of consistency between councils
- Delays and costs
- A lack of certainty for applicants
- Abuse of the process for personal gain, trade competition or vexatious litigants
- A lack of certainty over consultation requirements.
- The amendments introduced various provisions designed to ensure that decision makers are well trained for the role they were undertaking.

14 Part 4 of the RMA is concerned with the functions, powers and duties of central and local government.

15 For the purposes of this report the key provisions that are either elaborated on, mentioned or referenced are:

- Section 34 - delegation of functions, etc, by local authorities;
- Section 34A - delegation of powers and functions to employees and other persons;
- Section 39 - hearings;
- Section 39A - accreditation;
- Section 39B - persons who may be given hearing authority;
- Section 39C - effect of lack of accreditation;
- Section 40 - persons who may be heard at a hearing;
- Section 41 - provisions relating to hearings;
- Section 41A - control of hearings;
- Section 41B - direction to provide evidence within time limits;
- Section 41C - directions before or at hearings;
- Section 42 - protection of sensitive information;
- Section 42A - reports to local authorities;
- Section 113 - decisions in relation to resource consents;
- Section 290A - role of decisions in the Environment Court;

- Clause 8B of the First Schedule - hearings;
 - Clause 10 of the First Schedule - decisions.
- 16 Sections 34 and 34A are concerned with who can undertake certain functions of Council including who can sit on hearings of a local authority. In section 34 there is an unfettered right for the Council to delegate any of its powers, functions and duties under the RMA to a committee of the Council.
- 17 In section 34A there is a limited right of the Council to delegate some of its powers, functions and duties to a Council employee, a hearings commissioner/s (which can include a councillor), or any other person. The limitation for employees and hearing commissioner/s is that they cannot be delegated the power to approve a policy statement or plan nor are they able to sub-delegate. The limitation for other persons is the same as for employees and hearing commissioner/s and also includes decisions on resource consents and the making of a recommendation on a requirement for a designation.
- 18 Section 39 is concerned with the conduct of hearings. Anyone who undertakes a hearing must abide by the overarching principles in section 39. These include holding the hearing in public (unless section 42 or LGOMIA, otherwise allow), avoiding unnecessary formality, recognising tikanga Maori, not allowing questioning of one party to another (except via the chairperson), and not permitting cross examination.
- 19 Sections 39A - C are concerned with the accreditation of persons undertaking hearings. In essence the Council can only delegate to a group of persons to undertake certain types of hearings (resource consents, notices of requirements/designations, private plan change requests) if the chairperson of that group is accredited under s39A (under section 39B). However, lack of accreditation does not invalidate decisions (s39C).
- 20 It is important to note that the obligation to be accredited does not apply to the hearing of submissions on policy statements and regional plans.
- 21 Sections 40 to 42A are concerned with the mechanics of the hearing process. The amendments that were inserted in 2005 were designed to increase the level of scrutiny of the local authority hearing process without unduly increasing the level of formality. Many of the provisions have been inserted as a direct result of increasing the importance of the local authority hearing at the Environment Court stage (section 290A). In short, central government was seeking to achieve more transparency, efficiency and better decisions at the local government level.

The LGA and the relevance of LGOIMA

- 22 In general the provisions of the LGA and LGOIMA do not apply to hearings conducted under the RMA. This is because the RMA provides a specific process to follow for RMA matters. However, this delineation is less clear in the area of policy and plan making under the RMA. In this policy arena the process set out in Schedule 1 to the RMA is not particularly detailed. It is generally accepted practice (endorsed by the Ministry for the Environment) that plan and policy hearings follow a mixed RMA/LGOIMA process.

- 23 The LGOIMA process is less formal than the process under the RMA. The RMA process, particularly for resource consents, is quasi-judicial, and very much follows a similar structure to that followed in the Environment Court. In contrast hearings for non RMA matters, such as LGA strategies and plans are not so formal in terms of their structure and the manner in which they are conducted. Council must still adhere to the principles of natural justice in conducting such hearings but can do so in a less formulaic manner. Many meetings and hearings that are considering non-statutory strategy can follow the same sort of process that Council would adopt in a workshop rather than a more formal LGOIMA meeting process and certainly not a RMA meeting process.

What other Councils are doing

- 24 Generally, since the 2005 amendments to the RMA have come into effect, a number of Councils (both TAs and regional councils) have increased their use of independent hearings commissioners for all RMA hearings - both resource consents and plan and policy changes.
- 25 The prevailing trend is to use independent commissioners in resource consent hearings with less use occurring in planning and policy RMA hearings. I have not heard of any independent commissioners being used in LGA matters or in the non-statutory matters mentioned above. I comment further on these aspects below.
- 26 I have undertaken a general review of approximately 13 local authorities to provide a selective sample of what is happening in other regions and districts. I was quite random in my selection and did not choose Councils that I knew were adopting one method over another. I tried to include a mix of urban and rural districts, the Bay TAs and some comparable regions that are facing the types of issues that EBOP is facing. The results of this review are attached as Attachment A.
- 27 As you can see all those Councils reviewed use a mix of Councillors and independent commissioners. While this is not evident from the table I know that some Councils have chosen (almost exclusively) to use independent commissioners for most resource consent hearings (Whangarei, Auckland City, Rodney District). However, none of these Councils have excluded the possibility of using councillors on panels, it is simply the practice not to. The results in the table apply to both resource consent and planning/policy hearings under the RMA. The results do not refer to non-RMA practices.
- 28 In my view the reasons that local authorities have moved to using independent hearings commissioners are multi-faceted and differs from local authority to local authority. Some of the trends and reasons, particularly for resource consent hearings, I have observed or been informed of are:
- 28.1 With the need in resource consent hearings for at least the Chair (and at best the majority) of the hearings panel to be accredited under the RMA it was increasingly difficult to meet this requirement from the councillor group - due to time and cost constraints;
- 28.2 The increased complexity of the types of issues being considered necessitated at least one of the panel members being an expert in the process or subject and often more than one;

- 28.3 The increased complexity of the law and the hearings process itself, in part due to the amendments which increase the importance of the first instance decision, mean that the actual hearings process has assumed greater importance. This has seen an increase in the use of hearings committees consisting of such professionals as lawyers and planners - particularly in a chairpersonship role;
- 28.4 Applicants had started to request use of independent commissioners and there is no good reason for not acquiescing to their request;
- 28.5 Councillor time was better spent on more significant decision on Council policy such as the 10 year plan or LTCCP, non statutory policy matters, policy and planning hearings (as opposed to resource consent hearings);
- 28.6 The cost of using Councillors versus independent commissioners was higher particularly when staff time was factored in. This was primarily due to the fact that many independent commissioners have administrative back up in their work places such that their need to use Council officer time was minimal;
- 28.7 The use of professionals working in the resource management area on a daily basis as panel members has meant generally that better quality decisions were generally being made;
- 28.8 Independent commissioners on contract to Council have less constraints on their time than elected members and are therefore able to complete the task faster to produce results (ie decisions) to ensure they meet their clients' requirements. This is because it is their profession rather than an additional duty in an array of other council business;
- 28.9 In the regional council context we have seen a broadening of the functions of regional councils as a result of the LGA 2002. The resulting emergence of LGA activities as primary drivers of council business and the subsequent increases in non-RMA functions requiring Councillors attention has greatly increased the work load for members.

EBOP - striving for best practice

- 29 Like all councils EBOP strives to incorporate the best practices in its daily business and hearings of planning and policy matters and resource consents are often an area that comes under intense scrutiny and inevitable criticism. As mentioned above there are a number of common problems that councils encounter and I would expect that EBOP is no different.
- 30 I will elaborate on the detail behind the common pitfalls as follows:
- 30.1 Hearings processes are increasingly complex and are subject to greater and greater scrutiny. What used to suffice is no longer appropriate and local authorities are expected to behave in an extremely professional and judicial capacity. This manner of behaviour is vastly different than what is required in the context of hearings on the annual or 10 year plan. The rules of the hearing must be designed to ensure that natural justice

prevails. Some poor examples of hearing processes I have observed in other locations are:

- 30.1.1 Over familiarity with the participants such that there is a real or perceived risk of bias being shown to one party over another;
- 30.1.2 Too much contact with, or insufficient respect for, the professional officer team - who like any other participant in the process is submitting evidence to the panel that must not be seen to be held in a more favourable light, or less favourable light, than any other evidence;
- 30.1.3 Allowing cross examination even if ensuring that it is done through the chairperson. Only questions of clarification ought to be allowed through the chairperson;
- 30.1.4 Allowing others, other than the applicant, the right of reply in a resource consent hearing;
- 30.1.5 The RMA is complicated and in many consent hearings (noting that only the minority go to hearing so generally these are the more complex cases) the issues are technical. There is often an imbalance between the parties with the applicant highly resourced with a plethora of experts whereas the other parties are often lay persons representing themselves. It can be very difficult for any commissioner to manage and conduct hearings in these circumstances. In my experience, it is even more difficult for councillor panel members due to their general desire to see a more democratic process being undertaken. However, the RMA is an adversarial, quasi-judicial process not a democratic one;
- 30.1.6 Related to the last point is that I have observed that some submitters are reluctant to present to independent hearings commissioners, either because of the point made in 30.1.5 or because some submitters want to take the opportunity to grandstand on a particular issue unrelated to the matter under consideration at the hearing. Obviously this is a difficult area to address because on the one hand having accessible hearings is desirable whereas on the other hand it ought not be seen as opportunity for members of the community to raise issues that are best left to another forum;
- 30.1.7 Some panel members are obviously very much out of their depth in the hearing situation. This sometimes manifests itself in a lack of concentration, and the asking of inappropriate questions. As mentioned elsewhere the hearing process is difficult and complicated so a lack of understanding is not surprising. It has taken the senior members of the planning and environmental professions many years to reach the level of knowledge and expertise they have. Many hearings panel find themselves facing experts and lawyers who are the most senior in their fields not

only in New Zealand but in some instances from overseas as well;

- 30.1.8 Adjourning the hearing at the end rather than closing the open session and going into closed session for the purposes of deliberation. I think this is sometimes done because there is a concern that once the hearing has closed it cannot be reopened. This is not the case, it is entirely within the powers and rights of the hearings panel to reopen the hearing after it has closed if it needs to seek clarification or request further information;
- 30.1.9 Allowing too many participants to attend a site visit and letting those participants address the panel members during the visit.
- 30.1.10 Mixing up the requirements under LGOIMA with those under the RMA. In an RMA hearing the RMA requirements prevail. For example, some councillor hearings panel conduct the decision making process (which is in closed session) in the same way that a closed council or committee meeting would be conducted. Minutes are taken and the matters in issue are voted upon. At best this is time consuming, but at worst it can result in the minutes and deliberations becoming openly available and any disagreement among the panel becomes known. The best practice for deliberations is for the decision to become the minutes of those deliberations rather than any separate record being kept.

Tikanga Maori and observing Treaty responsibilities

- 31 Another issue faced by EBOP is the role of the Maori Councillors on hearings committees.
- 32 EBOP current policy, as noted in its internal documentation and in the Regional Policy Statement (section 5.3.1(c)(iii)), is to appoint hearings commissioners with recognised expertise in tikanga Maori whenever matters of resource management significance to iwi are being considered. This policy is consistent with many I have seen from other local authorities.
- 33 As mentioned below a distinction can be drawn between those hearings concerned,
 - 33.1 with RMA and other policy matters,
 - 33.2 with LGA and other statutory matters,
 - 33.3 with non-statutory matters, and those
 - 33.4 with resource consents.
- 34 In relation to all matters of policy if there are specific matters that require expertise in tikanga Maori or particular issues of concern to Maori over and above that of the community as a whole then it is good practice to ensure there is someone on the hearings committee who can assist the rest of the members in understanding the issues raised. In the policy Page 181 of 210; difficulties if hearing committee

members have a view or a perceived view on a particular issue. While this report is not providing an overview of the law on bias the general point to make in the context of policy considerations is that just because a committee member has expressed a particular view on a matter or is widely known to hold a particular view this does not preclude them from sitting on a hearings committee.

35 For resource consents perception of bias is more fraught. This is because in resource consents private property interests and rights are often being considered. Therefore the appointment of the hearings panel - whether they be councillors, independent commissioners or a mix of both must consider any issues of bias that may arise. Tangata whenua concerns are not immune from this. In my view if, for example, there are significant and/or fundamental cultural concerns raised by tangata whenua then a way that these can be understood and properly considered is to appoint a Maori commissioner (or councillor). The only caveat to this is that the same consideration of bias (perceived or real) must be taken into account. In some councils a way around this difficult issue is the council will select a Maori commissioner with a high national standing but few direct tribal affiliations in the locality.

36 In my opinion the statement of Council's position in the Principles of Decision Making dated December 2006, section 2.9 represents the current accepted approach in relation to the appointment of tangata whenua representation.

The way forward

37 In terms of a way forward there are a number of areas that I recommend are given some focus. These are listed here and elaborated on in the next section:

- 37.1 Refreshing and further standardisation of hearings procedures (ie the process, including what the introductory remarks ought to cover, house-keeping arrangements, site visits, role of staff, order or proceedings etc).
- 37.2 Guidance on the relationship between staff and the hearings committee. This will take the form of a short protocol and will cover the way advice is presented to the committee, the asking of questions to and from staff, writing of reports.
- 37.3 Hearings committee delegations need to be put in place whether the hearing committee be made up of councillors, independent commissioners or a mixture of both.
- 37.4 Criteria for panel memberships needs to be set in place. As a minimum the criteria ought to include that all consent hearing panel members are accredited under the RMA (note that this is more stringent than what the RMA requires). Accreditation is not required for policy statement and plan hearings under the RMA. Nor is accreditation required under any other statute such as the LGA. This requirement for accreditation ought to also apply tangata whenua appointees.
- 37.5 Criteria on what type of hearings panel is constituted for particular matters is needed. The following matters could be included:

- 37.5.1 Any application involving a entity or an asset that the Council has an interest in (eg Port, EBOP holding companies).
 - 37.5.2 Any application for a resource consent for a project that Council is a significant contributor to (eg Tauranga eastern motorway).
 - 37.5.3 Any application for a resource consent in relation to an action under the Lakes restoration project.
 - 37.5.4 Any application for a resource consent where the Council or Group of Council is the applicant (eg the Rivers and Drainage team).
 - 37.5.5 Any application where the applicant is a TA as these are often high profile and potentially politically difficult so the need to divorce the politics out of the issue is important.
 - 37.5.6 Taking into account the request of the applicant.
 - 37.5.7 Highly technical issues.
 - 37.5.8 Capacity considerations, ie where members are not available to be on hearing panels within the timeframes specified in the RMA.
- 37.6 How this criteria would work in practice (ie what type of hearings panel is constituted) is set out in the table below.

A distinction between hearings for resource consents and RMA plans and policies and other plans and policies

- 38 In my view a distinction can be drawn between hearings for resource consents and hearings for RMA plans and policies and other plans and policy hearings. The former tends to be more locally focussed (with some of the big applications aside) and generally does not have an impact on the region as a whole. The latter are policy setting and therefore regionally based. It is a policy setting role that councillors are elected for and therefore it is seen as totally appropriate for councillors to be the prevailing hearings panel members for RMA plans and policies.
- 39 Having said this independent commissioners can assist for example, in the RMA plan and policy area as follows:
- 39.1 Where there are highly technical issues that require an expert to input directly into the decision making process, for example, hydrology expertise in relation to the setting of minimum flows, or geothermal expertise when considering sustainable extraction levels under the Geothermal Plan. A specific example is the Papamoa Comprehensive Stormwater Consent hearings (2005 - 2008) where Commissioner Graeme Ridley was appointed to sit with two members (Councillors Noble and Ford) to provide stormwater engineering expertise for the regional council as part of a wider joint hearing.
 - 39.2 Where Council is seen to have a vested interest (albeit not an actual conflict), for example, a plan change that would have a bearing on a

Council asset of interest. For example in the case of Change 2 to the RPS the perception that the Council's indirect ownership of business land could influence its decision making on the Change in regards to business land resulted in the use of an independent commissioner. Another example where an independent commissioner might be desirable is when Council's Rivers and Drainage Group need resource consent under the Proposal Regional Water Plan in relation to their operational activities.

39.3 Where there is a direct conflict of interest, for example, a plan change to the Regional Coastal Environment Plan for coastal occupancy charging which could impact financially on the Port of Tauranga, which Council have a direct financial interest in.

40 In addition, there is also a practical need, in my view, to ensure that the arrangements for the hearing panels for RMA policies and plans are similarly delegated as for resource consents. In other words, it is important to ensure that Council members and independent commissioners (both individually named) are included in appropriate general delegations to allow for flexibility of appointment to hearings panel and to deal with such issues as the interregnum between elections. I cover the issue of delegation in the recommendations section of this report.

Recommendations

Hearings Procedures for RMA matters

41 EBOP has hearings procedures in place that are being used. However, it is recommended that these are refreshed to make sure that they are current, reflect best practice and take into account the recommendations contained in this report. The narrative and flow chart hearings procedure included in training manual from the Ministry for the Environment is the recommended starting point and is attached as Attachment B.

Hearings Procedures for non-RMA matters

42 As non-RMA hearings must be conducted under LGOMIA and in accordance with Standing Orders (which governs all non-RMA Council business) it is not recommended that a specific hearings procedure for these hearings is required.

Staff and committee protocols

43 To ensure that the relationship between the hearings panel and staff is appropriate and consistent across each panel the protocol attached at Appendix C is recommended. What this protocol clarifies is the following:

43.1 Staff providing expert opinion to the panel ought to be treated in the same way as all other experts presenting to the panel. It is important that there is an 'arms-length' relationship kept between expert staff and panel members during the course of the hearing and during deliberations;

43.2 Staff providing administrative support (the Governance Team) are there to support the panel in all respects. There is no need to keep an arms-length relationship with such staff;

43.3 The deliberations of the hearings committee are undertaken in confidential session under b)Page 184 of 210e requirements of LGOIMA. As can be

9/1/15

seen in the recommended hearings procedure the chair ought to always close the hearing and note that the deliberations will be undertaken in confidential session. The same requirements that apply to expert staff during the hearing apply during deliberations, except for administrative secretary staff. Especially in resource consent applications it is not appropriate for those expert staff members who have provided evidence to the hearings panel to be present (even if they are not saying anything) in panel deliberations. If the committee requires expert input then alternative staff members or external assistance ought to be sought. The reason for this is simple. The staff are the experts of Council providing the expert opinions of the Council officer team. Such staff ought not be tainted with any suggestion that they in some way influenced or had a hand in the decision of the committee. Such allegations if founded can have serious consequences for both the Council and the staff member concerned. Now that the decision of the first instance hearing has been given more emphasis in the Environment Court these procedural issues assume greater importance. In the case of plan and policy matters there is less of a concern with staff being present (though not participating) during deliberations. In policy and planning matters the issues are often not so controversial and therefore having staff present deliberations is less fraught with difficulty.

Delegations

- 44 It is recommended that a general delegation is put in place that allows for both Council members (named) and named independent commissioners to be on a standing list for hearings committees. A suggested generic delegation for both resource consents and RMA plan and policy hearings is attached as Attachment D.
- 45 A list of commissioners needs to be inserted in this document. It is suggested that staff arrange for a list of independent commissioners to be brought back to the Regulation, Monitoring & Investigation Committee for approval and addition alongside those Councillors that are accredited and wish to sit on hearings committees. Maintaining ongoing contracts with able Commissioners allows a working relationship and the subsequent efficiencies to develop.

Conclusion and final recommendation

- 46 In the previous section there is a list of criteria that could be used to determine what type of hearings panel could be used. A better way of illustrating this is that for those decisions involving a policy or strategy content (regional influence) then these ought to be undertaken by panels of members. For those involving Council having an interest then these ought to be either solely independent or a mixture of independents and members (depending on conflict issues)
- 47 The following table illustrates the distinction between the degree of influence of the decision (from top to bottom) with the more influential decisions at the top of the table and the significance of the process from a legal perspective (from bottom to top) with the more procedurally significant decisions at the bottom.

9/1/16

Nature of issue	Composition of hearings panel
Final decision on Plans LTCCP, Annual Plan Regional Land Transport Programme and other initiatives at Select Committee Regional Land Transport Strategy	Full Council
Various	Council Committees, including joint committees (as per delegations)
RMA Plans and Policy	Sub-Committee (or commissioners) Councillors (unless one of the matters listed in paragraph 39 applies]
Non-statutory Plans and Policy (eg Walking and Cycling Strategy, pest management, Ohiwa Harbour strategy etc)	Sub-Committee of Councillors
Resource Consents <ul style="list-style-type: none"> • involving an entity or an asset that the Council has an interest in (eg Port, EBOP holding companies) 	Independent commissioners
<ul style="list-style-type: none"> • projects where Council is a significant contributor to (eg Tauranga eastern motorway) 	Independent commissioners
<ul style="list-style-type: none"> • for the Lakes restoration project 	Independent commissioners
<ul style="list-style-type: none"> • where the applicant is a TLA 	Independent commissioners
<ul style="list-style-type: none"> • taking into account the request of the applicant 	Use of discretion suggest agreement but depends on the circumstances
<ul style="list-style-type: none"> • capacity considerations, ie where members are not available to be on hearing panels 	Independent commissioners
<ul style="list-style-type: none"> • where it is likely there will be significant political submissions not directly related to the application 	Independent commissioners
<ul style="list-style-type: none"> • where the application is non-notified 	No change. In accordance with staff delegations and guidelines in 2007

9/1/17

- 48 Obviously these matters are not as black and white as the table shows and matters like this tend to be determined on a case-by-case basis. For both resource consents and RMA plans and policy hearings panels the proposed delegations in Attachment D provide that the actual panel composition will be determined by the Chair of the relevant committee and the relevant Group Manager.

Concluding remarks / wrap up

- 49 As illustrated in this report it is obvious that members are increasingly facing more complex and important decision making tasks beyond the RMA focus. Even in the RMA context the task of decision making has become more complex requiring significantly more time and expertise from those involved.
- 50 The purpose of this report is to provide guidance on how to effectively and efficiently manage the increase in resources required for RMA decision making in particular, while continuing to ensure that such decision making is of a high quality.

Helen Atkins

7 May 2008

9/1/18

List of Attachments

Attachment number	Attachment title
A	Review of Local Authority use of Independent Commissioners
B	Hearing Procedures
C	Staff and Hearings Committee Protocols
D	Delegations

Attachment A - Review of Local Authority use of Independent Commissioners

Council	Commissioners or Councillors	Notes
Auckland City Council	Both	Hearings commissioners are appointed by the Regulatory and Fixtures Sub-committee to sit for the hearing. Commissioners can be drawn from among councillors, community board members or they may be independent. The number of commissioners to hear the application varies according to the nature of the application and complexity of the issues raised.
Whangarei District Council	Commissioners for consents	Use Independent Commissioners for resource consent and plan change hearings - no Councillors used at all; this has been the case since the last election and may change to include 1 Councillor although nothing has happened on this yet.
Rodney District Council	Both	For resource consent hearings there is always an independent commissioner as chairperson plus 1 councillor from ward relevant to application and 1 councillor outside the ward
Auckland Regional Council	Both	The hearing committee is normally made up of three regional councillors, although 'specialist' or independent commissioners may be used if considered necessary to provide technical support to the councillors.
Environment Waikato	Both	The hearing gives the applicant and all submitters who stated in their submission that they wish to be heard (whether in support or opposition), the opportunity to formally present their views to a hearing committee. The committee is normally made up of regional councillors and/or independent commissioners.
Horizons Manawatu-Wanganui	Both (see attached info)	Hearing Panel may comprise of Councillors and/or Commissioners. Horizons determines the best fit in terms of appointment on a case by case basis. Where the matters are of a more technical nature and are involved then a mix of Independent Commissioners and Councillor Commissioners is used. If the matter is more straightforward then the Hearing Panel would be entirely Councillor Commissioners. All those appointed have accreditation under the MfE scheme. So not just conflict of interest situations where Independent Commissioners are used. The Council is mindful of potential additional costs associated with Independent Commissioners and will discuss this with each Applicant and their advisors. Each Hearing Panel has to be approved by the Chairman of the Regional Council.

9/1/19

9/11/20

Council	Commissioners or Councillors	Notes
Hawkes Bay Regional Council	Both	Use both; have had retired councillors used as commissioners alongside elected councillors. Had one plan change matter where it was a Commissioner sitting alone as Council was the applicant so was conflict of interest to use councillors. Due to volume of notified resource consents will probably use commissioners as well as councillors to cope with workload. To sum up: in the main councillors but with the help of independent commissioners with a technical specialisation on the more difficult ones
Gisborne District Council	Both	Mixture - if conflict of interest then commissioner is used, also if application involves engineering or environmental technical issues then commissioner is used
Environment Canterbury	Both	<p>Plan changes: in the past have used an independent chair with a technical background due to magnitude of plan change, chair was supported by councillors who then became commissioners (as some didn't survive election). From now on the preference for planning matters, because they're policy matters, is to only use councillors</p> <p>Resource consents: A Hearings Committee usually consists of one or more regional councillors. Environment Canterbury technical staff are usually also on hand to advise the committee.</p> <p>A commissioner may be appointed by Environment Canterbury to carry out the functions of a Hearings Committee at times when a Hearings Committee is not available or otherwise appropriate.</p>

Council	Commissioners or Councillors	Notes
Christchurch City Council	Both	Commissioners have authority delegated to them by the Council to consider resource consent applications. Most notified resource consent applications are heard by Hearings Panel made up of Councillors and Community Board Members but in situations where there is a potential conflict of interest (eg Council is applicant or landowner or has a financial interest in some aspect of the application) then one or more commissioners are appointed to consider and made decisions on the application.
Whakatane District Council	Both	<p>Chief Executive will appoint an independent Commissioner/s to hear and decide resource consents in following situations:</p> <ul style="list-style-type: none"> • Where Council or its delegate is the applicant for resource consent • Where Councillors or immediate family is the applicant for resource consent • Where Councillor declares an interest in the resource consent application • Any other situation deemed appropriate in the circumstances by the Council
Tauranga City Council	Both	<p>The Council hearings panel is made up of councillors and/or independent commissioners.</p> <p>Note where a conflict of interest arises and the application for resource consent must be determined by an Independent Commissioner, then the costs arising out of the use of that commissioner shall not be borne by the applicant.</p> <p>Where there is no conflict of interest and the applicant requests that the application for resource consent be determined by an Independent Commissioner, then the applicant shall bear all costs.</p>
Western Bay of Plenty District Council	Both	<p>A decision on a Plan Change is usually made by either the Council or an Independent Commissioner, and can be appealed to the Environment Court.</p> <p>Attending a Hearing</p> <p>The Regulatory Hearings Committee is a standing committee of the Western Bay of Plenty District Council, and consists of six Councillors.</p> <p>A total of only three Councillors need to be present to make up a quorum.</p>

9/1/21

9/11/22

Attachment B - Hearings Procedures¹

Section 41 of the RMA applies the Commissions of Inquiry Act 1908 to the conduct of a council hearing (see Addendum C). It extends the powers of the hearings committee to maintain order, call or summons witnesses, and investigate evidence as the hearings committee members see fit.

The basic sequence of resource consent and plan hearings is shown in the attached flowchart.

Resource consent hearings sequence

Step 1: The chairperson introduces the hearing

The chairperson begins the hearing by welcoming the participants, introducing the hearings committee, and briefly explaining the process. The introduction will describe the general sequence of speakers. It should help put people at ease and can make a difference to how comfortable people are in taking part in the hearing. Participants should be encouraged to be constructive in their contribution and to fully explain their reasons for and against the proposal. They should be told that no disparaging comments are allowed.

Step 2: The applicant presents their case

It is up to the applicant to decide how they will present their case. However, the sequence and fairness of a hearing rely on developing a sound description of a proposal early in the hearing. A better understanding of what is proposed and how it is likely to affect the environment can be assisted by a thorough presentation by the applicant. This can be achieved with the assistance of a detailed description, drawings, photographs and photo montages, plans, models and graphs. Large-scale illustrations are often supplied in the course of an applicant's opening addresses and subsequent speakers can refer to them throughout the hearing. In the end it also relies on the imagination of those taking part in the hearing.

The visual and explanatory aspects of an applicant's presentation are important. What might be plain to some participants may not be so to others. It is important for all the key parties and the hearings committee to have a thorough understanding of the proposal. Providing better opportunities for submitters to understand the proposal is likely to provide for better quality participation.

Ideally, as part of the presentation, the applicant should:

- describe the proposal in detail
- identify the relevant issues and the legal and planning framework within which those issues are to be assessed
- describe the adverse effects, and how these are to be avoided, remedied or mitigated
- comment on the reporting officer's recommendations
- indicate how submitters' concerns will be addressed in the evidence to be presented.

¹ Reproduced from Module 4 of the Making Good Decisions Material (Commissioner Training Manual) published by the Ministry for the Environment. Page 192 of 210

9/1/23

Not all applicants are able to describe the existing environment, nor do they necessarily describe their own proposals well or accurately. Some applicants, particularly where they are inexperienced or not represented, or where the proposal is simple, do not prepare extensive material for the hearing, and instead rely on the application documentation. Reporting officers explore these matters before writing a report, but may also be making some assumptions. The hearings committee may need to probe further to verify certain matters, ask helpful and illuminating questions, and seek clarification and expansion by the applicant (refer to Module 8 for guidance on the art of questioning). To be in a position to do so, the hearings committee needs to be well prepared in advance of the hearing.

Helping all participants to develop a more accurate understanding makes a difference to effective participation. For example, if submitters are still convinced that the proposal will be detrimental, at least they will be able to identify more clearly which aspects of the proposal they can support and which they cannot. By questioning the applicant's witnesses, the hearings committee draws out and confirms this fuller understanding.

Step 3: Submitters present their cases

Submitters have an important part to play in drawing attention to issues that:

- Have not been fully explained
- May have an adverse effect on the environment, or
- May contravene agreed council policy or RMA principles.

At times, submitters' local knowledge provides insight into the existing environment and how the development could potentially affect it. Submitters are less likely to have taken part in a hearing before. This may mean they don't develop their arguments using RMA jargon, or as fully as they might. Regardless of faults in expression, submitters potentially raise relevant issues and observations that merit attention. It is helpful to have their presentations follow the applicant's so there is sufficient time to clarify misunderstandings before the hearings progress much further.

Good practice tip

It is often useful to ask that a submitter move across to a map and point out where they live, or where their interests lie. This can help to relax a submitter, who might otherwise be anxious about delivering their submission, and can also enhance the informality of the hearing. It may also reinforce an understanding of how the development might or might not affect them. It may be appropriate to clarify uncertainties immediately by asking the applicant to answer some questions of a factual nature while the submitter is still present.

Example:

A submitter claims that the developer is going to be using truck and trailer units to take materials from the site and that there is insufficient visibility for vehicles exiting onto a particular road. The submitter considers that right-hand turns would be dangerous there. The hearings committee asks the applicant to clarify what type of vehicles will be used and to point out whether other exits will be used for egress from the site.

The hearings committee then decides whether or not it needs additional traffic engineering advice before making its decision. The council's traffic engineer may already be scheduled to produce evidence later in the hearing. In such a case, the committee members may note what

9/1/24

information they will seek from the engineer on that particular issue. It might be helpful to tell the submitter that the hearings committee intends to explore these issues more thoroughly and that an engineer will be giving evidence at such-and-such a time.

In other works, the sequence of speakers can be broken for questions to be answered when new issues arise or clarification is needed. A hearing should be seen as a process, where there is a general progression in calling speakers. However, sticking too closely to the sequence can mean missing opportunities to address issues as they arise.

Note that only people who have made submissions have speaking rights at a hearing. However, submitters may be represented, and may call witnesses.

Submitters only get one chance to express their concerns, unless new evidence that might have a bearing on their submission is introduced after their allocated time to speak. At time applicants modify the proposal or provide further explanation to address concerns. It is important to inform the submitters when they give their evidence of such changes, and the hearings committee should draw such matters to the attention of submitters if they were not at the hearing during the applicant's presentation. They should then have the opportunity to comment on this additional information during their allotted speaking time, or at another appropriate time (in the event of information being introduced after they have spoken).

Step 4: Reporting officer's review

The staff and/or consultants employed by the council normally speak next. They will have been present throughout the hearing so far and will have heard the submissions and evidence. This additional information may modify their professional opinion as described in their initial recommendation (see Module 3). Their final comments to the hearings committee clarify factual information or plan provisions and say whether any alteration to their original recommendation should be made. Technical specialist such as a botanist or acoustic engineer should be asked for their comments before the reporting officer speaks.

If it is a short, concise hearing there may be no need to have the reporting officer make any further comments after the applicant and submitters have spoken.

Step 5: Applicant's right of reply

Applicants are provided with the opportunity to respond to issues raised during the course of the hearing by other parties. The purpose of the reply is not to reiterate the merits of the applicant's case but to address the issues raised by other parties and to correct any misapprehensions.

This is the time when further problem-solving suggestions can be advanced. Applicants may choose to defend their proposal in exactly the same form as when they applied for consent, or they may take on board ways of overcoming concerns raised by the reporting officer or submitters. For example, their offers might include reductions in the size of the development, a slight shift in its location, painting a building in a recessive colour, or accepting some suggested conditions.

Example:

The reporting officer's report recommended refusing consent for an application to locate a house outside the designated building platform, as shown on the plans accompanying the *original* subdivision consent. This was within a lifestyle subdivision where all the building sites had been positioned to minimise the effect of housing in this coastal landscape.

9/11/25

The only submitters against the proposal pointed out that the new house would be overlooking their property more than if it were in its 'correct' location. The officer's report did acknowledge that the new location of the building platform would not compromise the overall intentions of reducing the effect of housing in the coastal landscape.

During the hearing the applicant offered to pay for landscape screening to be planted along the boundary of the submitters' property, on the applicant's own land. The submitters did not withdraw their objection but indicated to the hearings committee that this would satisfy their concerns. The reporting officer had the opportunity to comment, and indicated he would now recommend granting the application as its adverse effects were to be mitigated.

The variety of solutions illustrates how much impact the consent process can have on the evolution of a development idea. It reinforces the need for flexibility and informality in the process so participants are encouraged to think more broadly and applicants are not forced into a defensive position (see [10] in this module). There is little time for participants to reflect at short hearings, but longer hearings can provide the opportunity for opposing parties to meet over a cup of coffee during breaks and develop a better understanding of possible solutions to problems identified.

Step 6: Closing

The chairperson normally moves a resolution to close the hearing (with reference to the Local Government Official Information and Meetings Act 1987) and explains when the hearings committee will meet to deliberate. Participants are told of the anticipated timing of the decision and when it will be circulated (if it is a straightforward resource consent, it should be available within three weeks). The relative advantages of holding deliberations in private (after closing the hearing) and in public (before closing the hearing) are outlined in Module 9.

Acknowledging the efforts of the participants, particularly if they have put a lot of time and thought into preparing their evidence, is worthwhile at this point. No matter how experienced they are, applicants, submitters and expert witnesses often find giving evidence an ordeal.

The closing can be in writing if the applicant's reply is delivered in writing. The chairperson of the hearings committee simply writes a letter to confirm when all the information was received and the date of the closing. This letter then goes to all participants.

Varying the preferred hearing sequence

There are several reasons for varying the preferred sequence listed in the option steps described above. The first two are referred to on the flowchart.

Reporting officer's overview

An overview of a proposal by the reporting officer at the beginning of a hearing can focus attention, help the hearings committee recall key features of both the receiving environment and the proposal itself, and generally 'set the scene'. This presentation usually summarises the reason for a particular recommendation.

This option needs to be carefully handled by the chairperson. Some applicants and their representatives may resent this approach and prefer to introduce their applicant without such an overview. Submitters may think that in providing an overview the reporting officer has aligned with the applicant.

9/1/26

Written reply

Sometimes the hearings committee runs out of time. All the substantial matters may have been heard and sufficient response to questions made. In such cases, a written reply from the applicant is an acceptable alternative, provided it is circulated to all parties.

Joint hearing

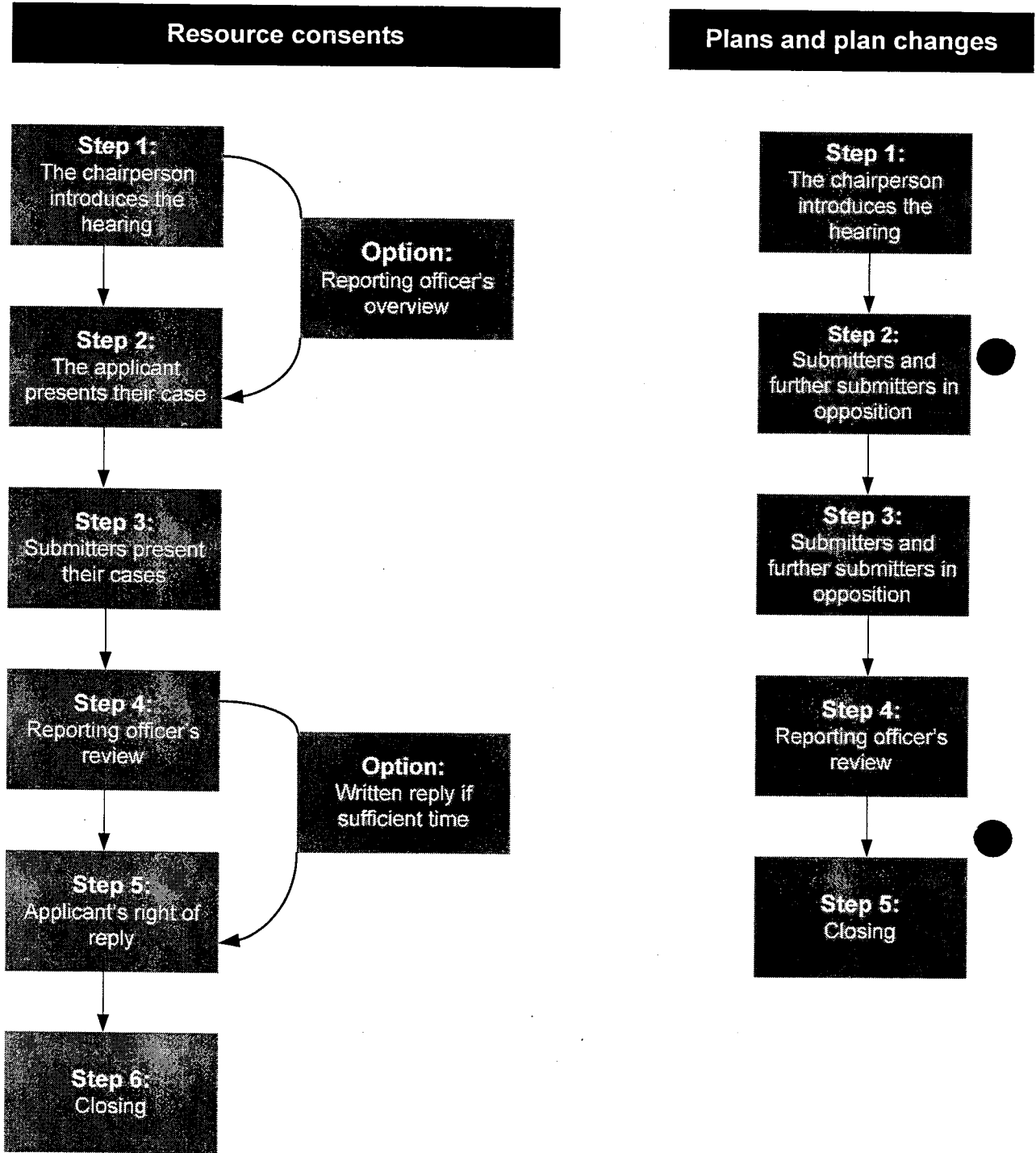
The only small variation necessary in the sequence of a joint hearing is for staff representing both councils to be heard. The preference for order should depend entirely on whether one conclusion depends on another.

Optional post-hearing processes and continuous improvements initiatives

Some hearings committees take the opportunity to hold post-hearing debriefings among the committee members to reflect on any good and bad aspects of the hearings and to learn from the experience. Also, some councils undertake period 'customer satisfaction' surveys to ascertain what users thought about their experiences at resource consent hearings. Both are good practice examples of encouraging continuous improvement in hearing processes.

9/1/27

Recommended sequence of hearing



9/1/28

Attachment C - Staff and Hearings Committee Protocols¹

Role of the Governance Team

The Governance Team are responsible for undertaking all the administrative and logistics in relation to the hearings, including:

- Allocation of hearing time
- Liaising with the parties
- Circulation of the agenda and other hearing documentation
- Logistics for the room set up (technology requirements etc)
- Taking of minutes (where required)
- General administrative support to the hearing committee

Role of the Technical Staff Team

The technical staff team are those staff providing expert input to the hearings committee. The role of the technical staff team is to:

- Liaise with the applicant and submitters on technical matters for the purpose of preparing the report to the hearings committee
- Prepare statement of evidence (generally called an Officer/s Report) for the hearing committee
- Present the report at the hearing
- Assist on technical matters during the formal hearing process

Site visit

During the site visit generally only one representative of each of the parties will be present, including from the technical staff team. No evidence or communication in the form of evidence is allowed to be given during the site visit.

Deliberations

As a general rule members of the technical staff team will not be present during deliberations of the hearings committee. If the hearings committee need technical support then this will be serviced via staff members not directly involved in the preparation of the officer report.

Notwithstanding the general rule, during the deliberations on a plan or policy matter it may be necessary for the technical staff team to be on hand to assist the committee due to the nature of the issues considered.

Preparation of the decision

The decision will be written by the hearings committee with assistance from the Governance team as required and technical input in accordance with the protocol mentioned under deliberations

¹ This is a summary of the procedures. For more detailed information see Principles for Appointment of Hearings Committee Members, 12 December 2006

9/1/29

Attachment D - Delegations under the Resource Management Act 1991

General Delegation

1. Under sections 34 and 34A of the Resource Management Act 1991 (RMA) and clause 32 and 32B of Schedule 7 of the Local Government Act 2002, the Council delegates its functions, powers, and duties of Council under the RMA as set out in the following paragraphs.

Delegation to the Strategic Policy Committee

2. The Council delegates the power to approve a regional plan, regional policy statement or any changes to a plans or policy statement to the Strategic Policy Committee.

Hearings Committee - policy and plan changes

3. Council authorises the Strategic Policy Committee to delegate to a Hearings Committee, the composition of which is to be determined on a case-by-case basis, the hearing of any submissions and other preliminary matters in relation to its powers in paragraph 2.
4. For the avoidance of doubt, the Hearings Committee does not have the power of making the final decision on these matters.

Delegation to the Chair of Regulation Monitoring and Investigation Committee and the Group Manager Water Management

5. The Council delegates the power to appoint a Hearings Committee for notified resource consents and other applications requiring approval, consideration or hearing to the Chair of Regulation Monitoring & Investigation Committee and the Group Manager Water Management acting jointly
6. The Chair of Regulation Monitoring & Investigation Committee and the Group Manager Water Management must appoint the Hearings Committee from the list of persons appointed and authorised by Council to sit on a Hearings Committee set out in Schedule 1 (Hearings Committee members).
7. The specific composition of each individual Hearings Panel will be determined by the Chair of Regulatory Monitoring and Investigation Committee in agreement with the Group Manager Water Management.
8. In the event that the Chair of Regulation Monitoring & Investigation and the Group Manager Water Management cannot agree, Council delegates the power to appoint a Hearings Panel to the Regulatory Monitoring & Investigation Committee.

9/1/30

Schedule 1 (Hearings Committee members)

[insert list of names both councillors and independent commissioners here. This must be named individuals]

APPENDIX 4

Resource Consent Application Hearings

Bay of Plenty Regional Council Consent Application Hearings between 1 May 2010 and 31 May 2013				
Year	Number/s	Applicant	Purpose	Regional Council Decision Makers
2010	65676 and Others	Tauranga City Council	Maintainance and Authorisation of Existing Structures in CMA	Commissioner Hill (City Council is Applicant)
2010	65977	Western BOP District Council	Maketū Wastewater Treatment Plant	Commissioner Van Voorthuysen (District Council is Applicant)
2010	65979	BOP Regional Council	Okere Gates and Ohau Weir	Commissioners Arcus, Van Voorthuysen, Bickers (Regional Council is applicant)
2010	66133	Ian Schultz Family Trust	Take groundwater for irrig. & frost prot	Councillors Summerhays and Nees
2010	66137	Singh J & D Kaur	Take groundwater for irrig. & frost prot	Councillors Summerhays and Nees
2010	66157	Turner WS	Retaining wall in Tauranga Harbour	Councillors Whittaker and Nees
2010	66280	Davis B&W	Retaining wall in Lake Rotoiti	Councillors Whittaker and Bennett
2010	66359	Whakatane District Council	Take groundwater for municipal supply	Councillors Von Dadelzen and Whittaker
2010	66439	Western BOP District Council	Take groundwater for municipal supply	Councillors Von Dadelzen and Whittaker
2011	65604	Carter Holt Harvey Limited	Construct pumpstation & discharge stormwater	Councillors Von Dadelzen and Whittaker
2011	65750 and Others	TrustPower Limited	Replacement Consents Associated with Matahina HEPS	Commissioners Bickers, Hill and Van Voorthuysen (Independent Commissioners requested by applicant under
2011	66519	LDL Tauranga Limited	Earthworks-archaeological investigations	Commissioner Van Voorthuysen
2011	66588	Tauranga City Council	Redevelopment of waterfront area	Commissioner Hill (City Council is Applicant)
2011	66675	Rotorua District Council	Rotomā Wastewater Treatment Plant	Commissioners Van Voorthuysen and Mohi (District Council is applicant)
2012	66950	Western BOP District Council	Waihī Beach Wastewater Treatment Plant	Commissioner Van Voorthuysen (District Council is applicant)
2012	67049	Transpacific Industries Group (NZ) Limited	Dis to land & air from transfer station	Commissioner Graham (Independent Commissioner requested by applicant under s100A)
2012	67131	AFFCO New Zealand Limited	Dis to air from rendering plant	Councillors Bennett, Whittaker and Thompson
2012	67150	SCA Hygiene Australasia Limited	Discharge wastewater to Tarawera River	Councillor Nees and Commssioner Bickers
2012	67162	Badala Property Developments Limited	Take groundwater for irrigation & frost	Councillors Nees and Thompson
2013	66862	Ngati Tuwharetoa Geothermal Assets Limited	Take and discharge geothermal fluid	Councillors Whittaker and Bennett and Commissioner Hill
2013	67082 and Others	Geothermal Developments Limited	Replacement Consents for Geothermal Power Station	Commissioners Milne and Hill and Councillor Bennett
2013	67335	Mighty River Power	Take, use and discharge geothermal fluid	Commissioners Milne and Hill and Councillor Whittaker

File Reference: 1.00030
Significance of Decision: Receives Only - No Decisions



Report To: Operations, Monitoring and Regulation Committee

Meeting Date: 20 June 2013

Report From: Ken Tarboton, General Manager Natural Hazards

General Manager's Report

Executive Summary

This paper provides a brief summary of key operational issues and achievements for the Operations, Monitoring and Regulation Committee. This agenda items also provides the Committee with an opportunity to have further input into significant operational matters.

The paper follows the Council's Ten Year Plan 2012 – 2022 programme structure but only those programmes that have items to report are included. Some of the items below may repeat information contained in "Councillor Catchup". While this represents a degree of repetition, inclusion in this agenda paper is intended as a means of formally presenting them to Council.

1 Recommendations

That the Operations, Monitoring and Regulation Committee under its delegated authority:

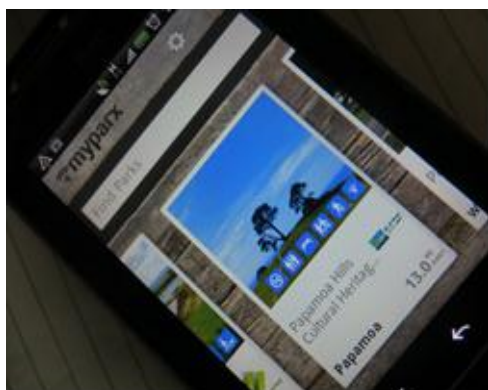
1 Receives the report, General Manager's Report.

2 Sustainable Communities

2.1 MyParx – Smart Phone Application

Pāpāmoa Hills and Onekawa Te Mawhai have been added to the "MyParx" application for smartphones. This application is used by several local authorities, DoC and tourism agencies in the Bay of Plenty region and country alike.

It allows users to identify parks and open space opportunities within close proximity.



2.2 Annual Parks User Survey – Pāpāmoa Hills Regional Park and Onekawa Te Mawahi Property

The annual park user survey was carried out over summer and results for both Council parks were excellent. Common themes in the feedback included requests for more seating and shade, as well as easier walking tracks (Pāpāmoa), and more native planting. There was also comments from several who wish to keep development to a minimum, i.e. you wish to see no major changes.

3 Sustainable Land Management

3.1 TrustPower Community Awards – Waitao Kaiate Environmental Group recognised

The Waitao Kaiate Environmental Group was nominated by land management staff for a community award at the recent TrustPower community awards held in Katikati. They received a commendation award in the Environment and Heritage category for catchment restoration efforts, including their time spent collecting seed, propagating plants in their own nursery and running planting days held in the Waitao/Kaiate catchment.



*Waitao/Kaiate Environmental Group members with their TrustPower Award
Russell Nelson, Shirley Nelson, Dave Hooker*

3.2 Future proof your Land Campaign

Land Management's 'Futureproof Your Land' campaign, launched at the Tauranga Harbour Symposium in March with a target audience of 700 rural landowners in the Tauranga catchment, is coming to a close. Packaged in a bright orange zip-up envelope, designed to grab landowners' attention, Council provided information toolkits to help land owners who face a range of challenges that, if left unmanaged, could undermine future production and the value of their land. The toolkits cover erosion, pollution, pest control and soil health.

Land management officers operated a telephone call-back process in April and May, asking for landowner feedback on the contents of the toolkit and offering assistance for any issues identified during the calls. The toolkit and phone calls were a way to initiate communications about land management with the top 700 landowners. Within the Te Puna, Waipapa and Oturu catchments, the mail out went to 185 landowners. The following are the results of the telephone follow-ups:

- 40 landowners requested further information
- 9 landowners are potentially interested in fencing or planting streams or native forest (this includes 2 identified priority landowners)
- Some negative feedback e.g. Council rates, money being spent on such a campaign, Smart Growth policy, WBOPDC esplanade strip management and more.
- Some landowners struggling financially (PSA, summer's drought effects and other concerns)
- Most landowners feel they are already managing their land appropriately.



3.3 Gullyhead erosion control – Kaituna Catchment

Land management staff are supporting landowners in the Kaituna Catchment with a Riparian Management Plan to control gully head erosion on their property. The erosion has resulted in a mass-movement of soil into the Kaituna River. Gullyhead erosion is caused by excess stormwater flowing over the lip of the gully, causing the lip to erode and continually fall into the gully migrating up the paddock. To slow the movement of the gully, earthworks contractors constructed a bund to collect the stormwater and pipe it down to the gully floor. In addition they contoured the paddock to reduce the slope and velocity of the stormwater.

Land Management staff took the opportunity to use this particular Kaituna example as a training day to learn about gullyhead erosion control, stormwater management and revegetation techniques.



*The gully (or canyon) after its last movement in May
The white arrow is the same place in both photos and shows what has been contoured*

3.4 **Cultural Connections Training – Collaboration with Tauranga City Council**

Over the last three years, Land Management staff have been fortunate to be offered the opportunity to join the Tauranga City Council's internal staff cultural training. The course runs across three days and teaches attendees about the history of local Māori prior to and after colonisation. It also covers sites of significance for local iwi/hapū i.e. Mauāo, as well as protocols for working with iwi/hapū in a resource management capacity. Also included is a bus trip which takes in all the sites of significance in the western bay with commentary from Des Tata on the importance of these sites to local iwi/hapū.

It has to date been a valuable opportunity for the land management staff not only for the knowledge component but also for building good relationships between staff of both Councils.

3.5 **Biosecurity**

3.6 **Noogoora Burr (*Xanthium strumarium*) Incursion at Bell Road**

Councillors may recall this incursion being mentioned in a previous report. This is a follow-up.

Noogoora burr is an eradication species under the Regional Pest Management Plan. Recently at the Bell Road site, staff met with representatives from AgResearch, Foundation for Arable Research, and Waikato Regional Council. It was seen by the partners as the worst Noogoora Burr site in the region. Discussion took place with the landowner on options for control. An action plan is being developed that includes:

- the development of alternative and more effective post emergent spray regimes and methods
- a trial plot secured at the infestation site to try out different methods for spraying and trying to reduce the seed bank with continuous tilling and control

- research into the persistence of Noogoora burr seeds in maize silage which may open options for land use change to better control seed production, and
- industry engagement and involvement including potential funding avenues for further work and research.

The meeting resulted in a much clearer plan of action, and initiated a pathway for better collaboration with industry groups. In this case, it is better collaboration that will lead to the development of effective management of Noogoora burr for the future.



A small Noogoora Burr seedling amongst tall maize

4 Sustainable Coastal Implementation

4.1 Kaituna River Re-diversion update

The Kaituna River Re-diversion and Wetland Creation Project team has come up with two concept designs for options to re-divert about 20% of the Kaituna River's flow. The team is currently in the middle of the first phase of pre-consent consultation, and is meeting with all relevant landowners, iwi, stakeholders and the general public to discuss the project.

Over the past four months staff from across the organisation have collected a huge amount of data on the lower river, open coast and Te Tinirau o Ngatoro i Rangi (Maketū Estuary) with the help of Maketū locals and contractors Discovery Marine Ltd, NIWA, the Cawthron Institute. The data, including sonar and LiDAR generated bathymetry, hydrodynamics, salinity, water quality, sediment sampling and meteorological observations, is now going through a quality assurance process. When all the data has been checked it will be modelled by DHI Water and Environment. DHI have been contracted to model some of the environmental effects of the proposals.

The next stages of the project include refining the preferred option based on stakeholder feedback and creating a detailed Assessment of Environmental effects during the rest of 2013. This, along with any applications for consents and designations required, will be presented back to the community early 2014, just before the second major round of consultation. If all goes well with consenting, construction could start in the summer of 2015/16.



Kaituna Re-diversion and Wetland Creation Project community open day at Maketū in May

Ken Tarboton
General Manager Natural Hazards

13 June 2013

