Overview report on Submissions

This report provides an overview of the key points arising from submissions and further submissions received on the Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement (Proposed Change 3). The assessment and recommendations contained in this report are not binding on the Regional Council or the Hearing Committee. This report has been prepared without knowledge of the content of any evidence or submissions that will be made at the hearing; consequently it cannot be assumed that the Hearing Committee will reach the same conclusions as those provided in this report.

Council staff recommendations on individual submissions and further submission points are attached in the document titled: Proposed Change 3 (Rangitāiki River) Staff Recommendations on Provisions with Submission and Further Submissions Report. This part of the report summarises each submission point and recommends whether the submission should be accepted, accepted in part or rejected, with reasons provided to justify the recommendation.

Recommendations

That the Hearing Committee:

1 Receiving the report – Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement – Overview Report on Submissions.

2 Receiving the report – Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement Staff Recommendations on Provisions with Submission and Further Submissions.

3 Receiving the redline strikeout version of Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement attached to this report.

4 Hears submitters and makes decisions in accordance with Schedule 1 to the Resource Management Act 1991 on all submissions and further submissions received to Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement.

5 Recommends its decisions in (4) above to the Regional Direction and Delivery Committee of the Bay of Plenty Regional Council for approval.
Introduction

My name is Nassah Steed. I am employed by the Bay of Plenty Regional Council in the position of Programme Leader (Statutory Policy).

I have a Bachelor of Planning degree from Auckland University. I have been employed by Toi Moana, Bay of Plenty Regional Council (Toi Moana/Regional Council) since July 2003. I have 17 years’ experience in resource management in both local and regional government. In my roles at the Regional Council, I have (among other duties) been responsible for managing the second generation Bay of Plenty Regional Policy Statement (RPS) project and compiling the Statutory Acknowledgements compendium to the RPS and regional plans. In addition to managing the second generation RPS project I was the lead Planner responsible for managing submissions and appeals to the Iwi Resource Management, Integrated Resource Management and Matters of National Importance provisions.

I am also responsible for the RPS Implementation Strategy (RPSIS) project and ongoing updates to the Statutory Acknowledgements compendium folder (as relevant Treaty of Waitangi settlements are legislated), implementing Toi Moana’s statutory planning work programme relating to district and city plans and district consent applications. This role involves overseeing Toi Moana’s comments, submissions, appeals and interests in resource consents lodged with the region’s territorial authorities and district plan changes and variations across the region.

Background

Proposed Change 3 was publicly notified on 11 October 2016 and closed on 23 November 2016 with nineteen submissions received. The period for further submissions opened on 17 January 2017 and closed on 15 February 2017 with six further submissions received. Two submissions were received late (within a day) and have subsequently been accepted using the provisions set out in s37 and 37A of the RMA by the Regional Integrated Planning Manager acting under delegated authority from the Council.

A list of submitters is attached as Appendix 1 to this report.

Development of Proposed Change 3

Section 119 of the Ngāti Whare and Ngāti Manawa Claims Settlement Acts 2012 include provisions which compel Bay of Plenty Regional Council to recognise and provide for the vision, objectives and desired outcomes of the Rangitāiki River Document in the Bay of Plenty Regional Policy Statement (RPS).

Following approval of the Rangitaiki River Document in December 2014 and publication in February 2015, Draft Change 3 (Rangitaiki River) to the RPS was prepared, as required by statute. The draft was prepared in consultation with internal staff and a workshop was held with the Rangitāiki River Forum on 30 April 2015. The Regional Direction and Delivery Committee approved Draft Change 3 for public consultation on 30 September 2015.
Draft Change 3 was open for informal comment until 5 February 2016, with nine written comments received. Legal advice was obtained in response to questions raised in comments by Whakatane District Council and Trustpower Ltd. Staff recommendations were prepared in response to comments received and these were work shopped with the Rangitaiki River Forum (the Forum) on the 17 March 2016. Further amendments were made in response to directions from the Forum.

At the Regional Direction and Delivery Committee meeting on 31 March 2016 approval was sought for Proposed Change 3 to be publicly notified. At that meeting the Committee sought a workshop to consider matters more fully. A Committee workshop was held on 8 September 2016 and direction was provided on a revised version of Proposed Change 3, taking into account all feedback and discussions up to that point in time.

Further legal advice was obtained in response to questions raised by Councillors at the workshop on the inclusion of existing operative RPS provisions in Proposed Change 3. The legal advice from Cooney Lees Morgan dated 9 September 2016 is provided under the confidential part of the meeting agenda. Proposed Change 3, as presented to the Committee, reflects that advice.

## 4 Statutory framework

The RMA (s61-62) provide direction on what matters Regional Council shall consider when changing an RPS. An RPS must:

give effect to:

- National Policy Statements and National Environmental Standards:
  - National Policy Statement for Electricity transmission.
  - National Policy Statement for Freshwater Management.

shall have regard to:

- Any management plans and strategies prepared under other Acts
- relevant entries on the New Zealand Heritage List/Rarangi Kōrero register required by the Heritage New Zealand Pouhere Taonga Act 2014
- regulations relating to ensuring sustainability, or the conservation, management or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Māori customary fishing).
- the extent to which the RPS needs to consistent with policy statements and regional plans of adjacent regional councils.

take into account:

- any relevant planning document recognised by an iwi authority, and lodged with the council.
- the matters in a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 that
relate to a part of the common marine and coastal area outside the customary marine title area of the relevant group.

5 Pre-hearing meetings

No formal pre-hearing meetings have been held with submitters.

6 Key submission issues and outcomes

Seven submissions were received from either iwi, hapu or other organisations representing Māori interests. Submissions from iwi and hapū, and Whakatane District Council are overwhelmingly in support. Fonterra Co-operative Group Ltd’s submission was generally in support although some changes have been sought.

Submissions largely in opposition were received from Trustpower Ltd, Federated Farmers and the Mataatua District Māori Council. The Mataatua District Māori Council are the only exception to submitters representing Māori interest. The Māori Council seek that Proposed Change 3 be withdrawn and Regional Council work with them to produce a memorandum of understanding and a statement on water.

The key submission issues are as follows:

- Inconsistencies in Proposed Change 3 that create uncertainty as to the outcomes sought (refer section 7.1 below).
- Integration of Proposed Change 3 with the process for implementing the National Policy Statement for Freshwater Management in the Regional Water and Land Plan.
- Whether indigenous vegetation and habitats provisions should be focused on protecting only ‘significant’ vegetation and habitats in line with section 6(c) of the Act.
- Proposed Change 3 favours settled iwi entities and is premature given hapū proprietary rights to water are not yet established in law.
- Applying the two way tuna migration policy approach to existing structures.
- Objective 7 is unnecessary as the policies it is linked with are focused on outstanding natural features and landscapes whereas the objective itself deals with non-outstanding

Sections 7.1 to 7.17 provide an overview of the matters raised in relation to these key issues, and a summary of the responses recommended by staff.

6.1 Inconsistencies

Trustpower Ltd’s submission (16-1) raised concerns about a number of inconsistencies in the drafting of Proposed Change 3 that result in the change being unclear as to the actual outcomes sought to be achieved. In particular:

- Issue 2.12.2 (1) states that the introduction of trout species has contributed to the reduction of indigenous fish in the Rangitaiki River catchment. However, Proposed
Change 3 does not include any objectives, policies or methods to specifically address this issue;

- Objective 7 seeks to maintain all features and landscapes regardless of their value, yet the relevant implementation policies seek to protect outstanding natural features and landscapes from inappropriate development (as such, there are no policies specifically implementing Objective 7);

- The anticipated environmental results for Objective 7 seek that the adverse effects of infrastructure on landscape and natural features be avoided, remedied or mitigated – whereas Method 23R is specific to drainage and flood protection works, and focusses on the minimisation of adverse effects; and

- The monitoring indicators for Objective 7 are inconsistent with the rest of the Change 3. In this regard, the monitoring indicators introduce the concept of preserving significant indigenous biodiversity values, whereas the remainder of Change 3 focusses on the maintenance and protection of such values.

- Policy RR 1B seeks to avoid impediments to tuna migration, whereas Method 23D focuses on the provision of passage of all fish over new and existing structures. These two aspirations are significantly different and will result in different consequences, as per the comment on Issue 2.12.2 (1) above. Trustpower understands that providing trout passage throughout the Rangitaiki River would have adverse effects that the section 32 report has not considered;

- The provisions appear to adopt an inconsistent approach to the use of the terms “iwi” and “tangata whenua”. Method 23J refers to “tangata whenua” whereas the other provisions in Change 3 refer to “iwi”. It is unclear whether these drafting changes are intentional;

- The anticipated environmental results and monitoring indicators for Objective 2 identify that significant indigenous biodiversity values and natural areas will be protected, whereas the objective itself focusses on the protection of all indigenous habitats and ecosystems;

Staff responses to the above points are provided in the following sections.

6.1.1 Issue 2.12.2.1 - Trout effects on Indigenous Fish

Trustpower Ltd make a valid point that Proposed Change 3 does not include any objectives, policies or methods to specifically address this Issue 2.12.2 (1) which states the introduction of trout species has contributed to the reduction of indigenous fish in the Rangitaiki River catchment. Whilst an accurate statement any policy response would require an objective, policies and methods to actively manage the adverse impacts trout are having on indigenous fish species within the catchment. Regional Council has no mandate to control trout fisheries within the Rangitaiki River catchment. The mandate to manage trout fisheries lies with a third party, in this case NZ Fish and Game. Furthermore any such approach would be contrary to section 7(h) of the RMA which states all persons exercising functions and powers under the Act shall have particular regard to the protection of the habitat of trout and salmon. It is also noted this is only a small part of the overall issue which is about the range of factors affecting the abundance of food (namely tuna) in the catchment. For these reasons it is considered inappropriate to promote any additional objective, policies and/or methods to address the effects trout have on indigenous fish species in the catchment.
**Staff Recommendation:**

No change is recommended in response to the concern raised about the effects Trout are having on indigenous fish species.

6.1.2 **Objective 7**

Trustpower Ltd make a valid point that Objective 7 seeks to maintain all features and landscapes regardless of their value, however the linked policies (MN 1B, MN 7B, MN 8B) seek to protect outstanding natural features and landscapes from inappropriate subdivision, use and development. Consequently there are no policies specifically dealing with non-outstanding natural features and landscapes.

One of the challenges staff have faced with Proposed Change 3 has been translating over the objectives of Te Ara Whānui o Rangitāiki into an RMA policy statement framework in a manner where they align with RMA terminology and purpose. In response to the concerns raised staff propose changing the focus of Objective 7 from non-outstanding natural features and landscape to amenity values and maintaining and enhancing the quality of the environment.

Section 7(c) of the RMA states all persons exercising functions and powers under the Act shall have particular regard to the maintenance and enhancement of amenity values. Section 7(f) of the RMA states all persons exercising functions and powers under the Act shall have particular regard to the maintenance and enhancement of the quality of the environment. It is considered that aligning Objective 7 with section 7 obligations in relation to amenity values and the quality of the environment better recognises and provides for the equivalent Objective 7 of Te Ara Whānui o Rangitāiki which states: *‘Naturalness of the river and the landscape of the Rangitāiki catchment is respected.’*

Furthermore Trustpower Ltd notes that for Objective 7 the:

1. Anticipated environmental results seek adverse effects of infrastructure on landscape and natural features be avoided, remedied or mitigated. However Method 23R is specific to drainage and flood protection works, and focusses on the minimisation of adverse effects; and

2. Monitoring indicators are inconsistent with the rest in Proposed Change 3 in that they introduce the concept of preserving significant indigenous biodiversity values, whereas the remainder of Change 3 focusses on the maintenance and protection of such values.

Consequential amendments are required to the relevant anticipated environmental results and monitoring indicators given the focus of Objective 7 is recommended to be changed to focus on amenity values and the quality of the environment.

**Staff Recommendations:**

1. Amend Objective 7 (renumbered 38) to read: “The qualities and characteristics of areas and features that contribute to the amenity values and quality of the Rangitāiki River catchment environment are maintained and enhanced where degraded.”

2. Change Method 23R to a new Policy RR 6C and amend to read as follows:
“Policy RR 6C: Promote drainage and flood protection works that minimise adverse effects on amenity values and maintain and enhance the quality of the environment

Promote the use of design options and construction methodologies for drainage and flood protection works which minimise adverse effects on amenity values and maintain and enhance the quality of the environment within the Rangitāiki River catchment.

Explanation

Existing drainage and flood protection works and related modifications to the Rangitāiki River have adversely affected amenity values and the quality of the environment.

A long-term strategic approach to managing flood protection works and providing land drainage benefits within the catchment is required. This approach needs to promote the importance of minimising adverse effects of any maintenance, upgrade or new proposed works on the amenity values and the maintenance and enhancement of the quality of the Rangitāiki River catchment environment. Priority should be placed on minimising adverse effects on amenity values and maintaining and enhancing the quality of the environment from the outset of the project initiation phase to influence the selection of design options and construction methodologies."

3. Remove linkages from Objective 7 to Policies MN 1B, MN 7B and MN 8B.

4. Delete the first AER and monitoring indicator linked to Objective 7 and amend the second AER and monitoring indicator to read as follows:

   **Adverse effects on amenity values and the quality of the environment resulting from drainage and flood protection works landscape and natural features from infrastructure are avoided, remedied or mitigated.**

   **No loss of amenity values for areas and features affected by drainage and flood protection works associated with outstanding natural features and landscapes identified in the Whakatāne and Taupō District Plans within the Rangitāiki River catchment**

6.1.3 **Policy RR 1B and Method 23D - Tuna v Fish Passage**

Trustpower Ltd’s submission notes the discrepancy between Policy RR 1B and Method 23D. Policy RR 1B seeks to avoid impediments to tuna migration, whereas Method 23D focuses on the provision of passage for all fish over new and existing structures. These two aspirations are significantly different and will result in different consequences, similar to their comment on Issue 2.12.2 (1) above relating to trout.

Staff accept there is an inconsistency and that any policies and methods flowing from Objective 1 (now renumbered 32) should be focused on tuna and not fish generally. Consequently amendments are recommended to Method 23D to refocus the attention from fish generally to tuna migration and passage, consistent with the overriding objective and Policy RR 1B.

**Staff Recommendation:** Amend Method 23D to read:
Method 23D: Require structures that provide passage for tunafish migration up and down the Rangitāiki River catchment

Require the provision of fish safe and effective tuna passage for all new and existing structures (including culverts) where they impede tunafish passage in the Rangitāiki River catchment.

Implementation responsibility: Regional Council

6.1.4 Tangata Whenua v Iwi

Trustpower Ltd contend Proposed Change 3 provisions use the terms “iwi” and “tangata whenua” inconsistently in various provisions and it is unclear whether this is intentional. For example Method 23J refers to “tangata whenua” whereas Methods 23N and 78 refer to “iwi”.

This is intentional and the distinction is necessary depending on the policy context. It not an issue confined to Proposed Change 3 it is also prevalent in the operative RPS. RPS Policy IW 2B(b) states that only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. Therefore if a method or policy is focused at a local level and/or the issue is site specific than it would generally be more appropriate to specify tangata whenua. If the method or policy is at a broader catchment or wider level or is likely to affect more than one iwi than the provision should be tailored to iwi

Proposed Change 3 utilises a number of existing operative RPS provisions from other sections of the RPS (including Iwi Resource Management and Matters of National Importance) in order to contribute to achieving the Rangitāiki River specific objectives. Existing operative RPS provisions utilised by Proposed Change 3 that include references to tangata whenua are Policies IW 6B, IW 5B and Methods 41, 42, 46.

Methods 23E, 23N, 23Q and 78 of Proposed Change 3 refer specifically to iwi. Iwi authorities are also included as being responsible for implementing various relevant methods. Iwi authorities are identified at this level on the basis the Treaty settlement legislation was agreed to with iwi and not at the hapū or tangata whenua level.

Staff Recommendation: Reject. No change required.

6.1.5 Objective 2 AERs and Monitoring Indicators

Trustpower Ltd note the anticipated environmental results and monitoring indicators for Objective 2 identify that significant indigenous biodiversity values and natural areas will be protected, whereas the objective itself focusses on the protection of all indigenous habitats and ecosystems.

In response staff recommend amending the objective to include “where significant” in relation to the protection of indigenous ecosystems to ensure it is consistent with Section 6(c) of the Act. An amendment has also been made to refer to enhancement “where degraded” which clarifies the intent of the objective and assists interpretation.
Consequently it is considered no amendments are required to the existing AERs and monitoring indicators linked to Objective 2 (renumbered 33).

**Staff Recommendation:** Amend Objective 2 (renumbered 33) to read:

**Objective 233**

Habitats that support indigenous species and linkages between indigenous ecosystems within the Rangitāiki River catchment are created, enhanced where degraded, and protected where significant and enhanced.

6.2 **Integration with NPS for Freshwater Management Process**

Federated Farmers submission (18-1) seeks Proposed Change 3 be withdrawn or put it on hold, pending the progression and implementation of the region's response to requirements of the National Policy Statement for Freshwater Management (NPSFM) framework.

Federated Farmers concern is Proposed Change 3 is being progressed through its statutory phases seemingly independently of the development of the region's response to the NPSFM framework and the progression of relevant regional plan changes.

Federated Farmers note the requirement in the Treaty settlement legislation, is subject to Proposed Change 3 being consistent with the sustainable management purpose of the Resource Management Act 1991.

Federated Farmers consider the outcomes of Proposed Change 3 cannot be consistent with the sustainable management purpose of the Resource Management Act given:

1. There is no RPS change to provide for the integrated management of the effects of the use and development of land and fresh water in accordance with Policy C2 of the NPSFM; and

2. The freshwater objectives have not yet been set in accordance with Policy A1 of the NPSFM.

The Treaty settlement legislation provides that, until such time as the Council changes the RPS as needed to recognise and provide for the vision, objectives and desired outcomes in the Rangitaiki River document, local authorities (including the Council itself) are required to have particular regard to the Rangitaiki River document in preparing or changing their plans. Thus the vision, objectives and desired outcomes in the Rangitaiki River document will be reflected in the development of the region's response to the NPSFM framework, regardless of whether or not they are incorporated into the RPS.

**Analysis**

Regional Council is required to recognise and provide for the vision, objectives and desired outcomes of the River Document under the Ngāti Manawa and Ngāti Whare Treaty Claims Settlement Acts 2012. Proposed Change 3 is therefore required under the Resource Management Act 1991 to complete the process of insertion as required by the Treaty statutes.
Proposed Change 3 is distinct from other Regional Council projects within the Rangitaiki River catchment, including the Water Quantity Regional Plan Change project and Freshwater Futures project which collectively progress council's response to requirements of the NPSFM. Council recognises the correlation between these various projects and internal collaboration between the various project teams is ongoing to ensure alignment.

Proposed Change 3 does not set ‘freshwater objectives’ prescribed in NPSFM Policy A1 or section CA of the National Objectives Framework. These will be set for Rangitāiki Water Management Area by way of a Regional Water and Land Plan change. The NPSFM directs setting more specifically applied freshwater objectives based on community and tangata whenua values for freshwater.

**Staff Recommendation:** Reject. Retain Proposed Change 3 subject to other recommended amendments contained herewith.

### 6.3 Mataatua District Māori Council

The Mataatua District Māori Council's (MDMC) submission seeks Proposed Change 3 be withdrawn on the basis it is premature and biased in favour of settled iwi rather than hapū.

MDMC is one of 15 Councils that constitute the New Zealand Māori Council a Statutory Body established under the auspices of the Māori Community Development Act 1962. Under section 18 of that Act the general functions of MDMC, in respect of all Māori, includes promoting the conservation, improvement, advancement and maintenance of the physical, economic, industrial, educational, social, moral and spiritual well-being of all Māori.

MDMC’s submission states it is made up of marae and hapu and it is the hapu who have tino rangatiratanga or sovereignty over water not settled iwi entities. MDMC’s concern is the Waitangi Tribunal have found that “Māori have interests in water”. Although that decision was overturned by the High Court a final determination by the Waitangi Tribunal is still pending.

The MDMC seeks:

1. Proposed Change 3 be withdrawn.
2. Regional Council collaborate with them on Proposed Change 3 and immediately work together to produce a memorandum of understanding.
3. That until the Waitangi Tribunal has legally found hapu have tino rangatiratanga/sovereignty to water, that MDMC and Regional Council proceed by identifying water bodies that exist within the MDMC region.

**Analysis**

It is acknowledged the Waitangi Tribunal are still completing their hearing on geothermal and freshwater. This process has been ongoing for a number of years and the Crown have acknowledged iwi interests in water although they have not recognised proprietary rights.

The Ngāti Whare and Ngāti Manawa Claims Settlement Acts 2012 both require Regional Council to promote a change to the Regional Policy Statement to recognise
and provide for the vision, objectives and desired outcomes of the Rangitaiki River Document - Te Ara Whanau o Rangitaiki. The Rangitaiki River Document was approved by the Rangitaiki River Forum in February 2015 and drafting of Proposed Change 3 commenced shortly thereafter. Regional Council is acting in good faith to ensure its Treaty legislative duties here in are given effect to. Indeed this is consistent with the requirement in Part 2 section 8 of the RMA that Council shall have regard to the principles of te Tiriti o Waitangi.

The request for a MOU with MDMC is a matter that can be dealt with external to this Proposed Change 3 project. The RPS already includes provisions relating to water quality and water quantity. Any water related provisions in Proposed Change 3 apply to the Rangitaiki River catchment area only in order to recognise and provide for the vision, objectives and desired outcomes of the Rangitaiki River Document. The RPS will need to be reviewed and updated if hapu proprietary rights to water are established under the RMA as a result of any decisions of the Crown emanating from recommendations of the Waitangi Tribunal.

With respect to the third point which seeks that MDMC and Regional Council proceed by identifying water bodies that exist within the MDMC region. It is difficult to ascertain what is sought by this point as water bodies are generally well understood and identified. If the matter concerns which hapū have mana whenua over certain water bodies or parts thereof then RPS Policy IW 2B(b) states that only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. The issue of mana whenua is a matter Regional Council is not normally involved in. MDMC has the discretion to work with tangata whenua of the respective hapu they represent to identify the bodies of water that exist within the MDMC region and any overlapping hapu interests pertaining to these bodies.

Staff Recommendation: Reject. Retain Proposed Change 3 subject to other recommended amendments contained herewith.

6.4 Rangitāiki Flood Scheme Effects on Freshwater Fish/Tuna

6.4.1 Summary of Ngāti Awa Submission 15-3

Ngāti Awa’s submission relates to significant issue 2.12.2.1 ‘The Rangitāiki River is no longer providing an abundance of food’. Their submission identifies certain land use changes resulting in a decrease in the number of freshwater fish in the Rangitāiki River catchment. The text refers to the clearance of indigenous vegetation for plantation forestry, pasture, urbanisation together with the establishment of hydro-electric dams, large irrigation schemes and factories as being responsible for reduced water quality, riparian margins, fish habitats and restricted fish passages.

Te Rūnanga o Ngāti Awa considers that a major contributor to the reduction of freshwater fish within the lower Rangitaiki is the loss of natural habitat resulting from rock work associated with the maintenance of flood scheme assets. Te Rūnanga o Ngāti Awa has significant concerns with the recent rate of habitat loss particularly in the lower section of the Rangitaiki which has resulted in large sections of natural spawning habitat being replaced with rock work.

Much of these flood scheme maintenance works are undertaken under historic maintenance authorities with little or no consultation with Ngāti Awa.
Te Rūnanga o Ngāti Awa seeks that loss of natural habitat resulting from the maintenance of flood scheme assets be identified as a contributor to the decrease in freshwater fish in the Rangitāiki River.

6.4.2 Freshwater Ecologist Analysis

Freshwater Ecologist, Alastair Suren, has considered Te Rūnanga o Ngāti Awa’s concerns and provided the following feedback.

Background

As part of the Proposed Change 3 process, Te Rūnanga o Ngāti Awa has made a submission to Bay of Plenty Regional Council. In their submission, they consider that a major contributor to the reduction of freshwater fish within the lower Rangitaiki reflects the loss of natural habitat resulting from rock work associated with maintenance of flood scheme assets. Te Rūnanga o Ngāti Awa are also concerned about the loss of large sections of natural spawning habitat with rock work, and its resultant effect on Inanga spawning.

There is a considerable amount of research that has documented the effects of flood maintenance schemes on river ecology. While most of this research has been done overseas, there are some local studies which show similar patterns. When considering the effects of flood maintenance schemes on river ecology, it is necessary to consider three different spatial scales:

- Microscale: centimetres to a few metres, as found in a small section along a bank
- Mesoscale: 10s to 100s of metres, typical of a river reach (channel-width and greater)
- Macroscale: kilometres, characterised by the entire river and its floodplain.

The effects of flood maintenance schemes (and in particular channelisation of the river, construction of stock banks, and use of riprap to stabilise and reinforce banks) manifest themselves through different processes at each of these spatial scales. These are discussed below.

Microscale.

Flow forces in rivers play a large role in determining the distribution of invertebrates and fish in rivers. In particular, factors such as velocity, shear stress and turbulence are responsible for the microscale distribution of animals close to and within the stream bed. For example, most invertebrates and fish have distinct velocity and depth preferences, and will consequently seek out areas where these preferences are maximised. Thus, for species which prefer slow flowing water, riprap and the spaces between individual rocks provide ideal habitats.

Furthermore, velocity and turbulence are highly variable adjacent to and within riprap structures, which is important as biological diversity is often associated with physical heterogeneity. This means that invertebrate and fish often live amongst gaps in riprap where they can seek shelter from fast flowing water. In streams like the Rangitaiki with a naturally small, highly-mobile streambed, large stable riprap provides an important habitat for both fish and invertebrates. This is particularly so where easily eroded pumice dominated banks occur. Therefore, at the microscale level, riprap may be providing an important habitat for invertebrates and some fish species - particularly
bottom-dwelling native species such as tuna and bullies that will live in the spaces between rip rap elements.

Mesoscale

At the channel width scale, hydraulic conditions created by riprap can be either beneficial or detrimental to habitat quality. Overseas studies have shown that where riprap has been placed at intermittent locations along rivers, there is often superior habitat than in areas where riprap is continuous. One reason for this reflects the creation of complex depths velocity profiles which are not found adjacent to continuous riprap areas. These complex depth and velocity profiles are important as they provide variable flow regimes to suite a wide range of different taxa. For example, scour holes can often form behind areas where riprap is placed, and these can represent ideal habitats for fish species which prefer slow flowing water.

Use of riprap in rivers to stabilise banks can have hugely negative effects on spawning habitat for native fish such as Inanga. These fish spawn at the upper limit of the salt wedge amongst bankside vegetation that is submerged at high tide. Riprap banks provide little vegetation for these fish to spawn amongst, so spawning success will be severely limited if bank conditions at the upper limit of the salt wedge are not suitable.

Macroscale

One of the defining features of rivers such as the lower Rangitāiki is the presence of stop banks along the channel, which are often reinforced with riprap. This has produced a relatively uniform single thread channel with relatively uniform cross-section profiles, few areas of backwaters and slow flowing water, and generally low levels of habitat diversity. Such engineering works have major, long-term implications for habitat quality and biodiversity (See Figure 1).

Firstly, slow flowing backwater habitats such as wetlands which were once connected to the river and which often flooded have been isolated. Such backwater habitats often represent areas of high biodiversity, and provide important shelter for invertebrate and fish during times of high or low flow. Moreover, it is important to realise that the mainstem of most rivers provides only sub optimal habitat for a wide range of invertebrates and fish, due to the fast velocities and high shear stress commonly found in mainstream channels. Secondly, confining a river between stop banks minimises the exchange of water and sediments, nutrients and biota between the main channels and other habitats. Many invertebrate and fish species have adapted to areas of periodic flooding and drying, and often disappear from rivers when these important floodplain habitats are lost. Thirdly, much of the native riparian vegetation which existed along the floodplain of natural rivers has been lost, and replaced with a wide range of introduced species such as willows, pasture grasses, and Glyceria maxima. Riparian vegetation provides important food and shelter for a wide range of animals, and the loss of this is also bound to have had ecological effects.
Conclusions

From the above, it is clear that the effects of flood maintenance works on the lower Rangitaiki river have greatly altered many of the important ecological processes that would have been operating prior to this work. However, the effects of such work are largely dependent upon spatial scales being considered. For example, at a small spatial scale there may be higher invertebrate and fish productivity in areas of riprap than in areas of actively eroding banks. However, at larger spatial scales the effects of flood maintenance work on the ecology of the lower Rangitaiki becomes more apparent. Much of the river would have lost its slow flowing backwater eddies and wetlands, and connections with inflowing streams. Bank reinforcements and channel modifications have also often resulted in a relatively uniform channel cross-section profile, thus lowering habitat complexity. Loss of the original riparian vegetation would also undoubtedly have had an adverse effect.

Given this, I tend to agree with the assertion of Te Rūnanga o Ngāti Awa that rock work associated with the maintenance of flood of scheme assets has been a contributing factor in the reduction of freshwater fish within the lower Rangitaiki River. I feel that this would primarily have affected tuna (both Shortfin and Longfin) in terms of loss of instream and backwater habitat, as well as Inanga in terms of loss of spawning vegetation and rearing habitat. Other fish such as torrent fish may also be less common.

Figure 1. Schematic diagram showing the major changes to a hypothetical river as a result of the channel modification. Note among things be greatly reduced area of meandering river channel, and vegetated areas with increase channel modification.
However, it must also be realised that there are many other pressures facing fish communities throughout the Rangitaiki catchment, and indeed throughout New Zealand. Such pressures include hydroelectric schemes blocking the natural migration barriers of native fish, as well as overall habitat loss of many streams flowing through agriculturally dominated areas. Furthermore, many native fish species are also subject to a high degree of harvest pressure, both commercial, cultural and recreational.

The majority of New Zealand’s native freshwater fish also have complicated life cycles that alter between freshwater and marine environments. For eels, adults spend the majority of their life in freshwaters, returning to the ocean to spawn. The larval eels then drift back to New Zealand on ocean currents where they enter freshwater habitats. Many of the other native fish such as galaxiads (e.g., inanga, kokopu, and koaro) and some bullies have life cycles where eggs are laid in freshwaters, and the young larvae are washed out to sea for a few months before returning back to freshwater habitats. Neither eels nor other native freshwater fish return to the same waterway where their parents came from. This means that pressures throughout the country that may be reducing overall spawning success and recruitment will be manifested on all rivers, irrespective of their location and whether they have or have not been modified by flood protection schemes. So, any potential reduction in the numbers of eels, or other fish arriving in the Rangitāiki cannot be attributable to flood protection schemes per se. However, the survivability of young fish once they enter the river is likely to be closely linked to the habitat conditions within the river, which as can be seen from the above discussion, has been altered on many levels.

**Staff Recommendation:**

In summary, staff recommend amending the second and third paragraphs of issue 2.12.2.1 by recognising the establishment and maintenance of flood protection schemes as a contributing factor to the reduction in the number of tuna, riparian margins, fish habitats and restrictions on fish passage to read:

**1. The Rangitāiki River is no longer providing an abundance of food**

The Rangitāiki River and its tributaries have historically provided a highly valued tuna fishery which sustained the way of life of local people for generations.

Widespread land use changes within the Rangitāiki River catchment have resulted in a decrease in the numbers of freshwater fish (ikawai) such as the native longfin eels (tuna kuwharauwharu) and whitebait species (Inanga, Banded Kokopu and Giant Kokopu). The clearance of indigenous vegetation for plantation forestry, pasture, and urbanisation together with the establishment and maintenance of hydro-electrical dams, flood protection schemes, large irrigation schemes and factories have reduced water quality, riparian margins, fish habitats and restricted fish passage. The introduction of trout species has also contributed to the reduction in numbers of indigenous fish species within the catchment.

Numbers of tuna in the Rangitāiki River catchment are declining due to a range of causes, including the commercial harvest of eel and the establishment and maintenance of flood protection schemes.

6.5 **Treaty Co-Governance Compendium Document**
Trustpower Ltd seeks amendments to Section 2.12 to make it clear the Treaty Co-Governance Compendium does not actually form part of the RPS. The statement in Section 2.12 that this chapter should be read in conjunction with the compendium implies the compendium has some form of legal status (or otherwise) on its own – or at the least creates uncertainty as to the status that the compendium is intended to have.

Trustpower Ltd seek the third paragraph of Section 2.12 be amended to read as follows.

The purpose of this section is to fulfil the requirements of treaty settlement legislation in so far as it relates to the Regional Policy Statement. Background information is provided in the Treaty Co-Governance Compendium Document. It is to be read in conjunction with the Treaty Co-Governance Compendium Document. The Treaty Co-Governance Compendium Document, which can be accessed at Council offices and on its website, includes a copy of Te Ara Whānui o Rangitāiki – Pathways of the Rangitāiki, the approved River document that was prepared under the treaty settlement legislation. That document includes detail of the historical association each iwi has to its ancestral awa and/or moana (waterbodies). It is an important document that provides context for this section of the Regional Policy Statement, although it does not form part of the Regional Policy Statement.

Analysis

Although Te Ara Whānui o Rangitāiki is a legislative document under the Treaty Settlement legislation it is not strictly speaking a legal document under the RMA. The intent behind including Te Ara Whānui o Rangitāiki in a compendium to Proposed Change 3 is to acknowledge it is the baseline document for this RPS change and will serve as a reference document for interested persons.

As Proposed Change 3 progresses through the Schedule 1 process its contents will be altered in response to submissions and ultimately as a result of any Environment Court appeal resolutions (either by consent order or Court determination). What ultimately ends up in the operative RPS may differ from what is in the original River Document.

The compendium will also be updated when the Kaituna River Document, and the equivalent document for Tauranga Moana are eventually approved. As a non-RMA document the compendium can be updated without the need for formality when these further co-governance documents are approved.

Staff Recommendation:

Amend Section 2.12 to clarify that the Treaty Co-governance Compendium Document provides important context to the Treaty Co-governance chapter but does not form part of the RPS to read:

The purpose of this section is to fulfil the requirements of treaty settlement legislation in so far as it relates to the Regional Policy Statement. It is to be read in conjunction with the Treaty Co-governance Compendium Document, which is an important document that provides context for this section of the Regional Policy Statement, although it does not form part of the Regional Policy Statement. The Treaty Co-governance Compendium Document, which can be accessed at Council offices and on its website, includes a copy of Te Ara Whānui o Rangitāiki – Pathways of the Rangitāiki, the approved River document that was prepared under the treaty settlement legislation. That document includes detail of the historical association each iwi has to its ancestral awa and/or moana (waterbodies). It is an important document that provides context for this section of the Regional Policy Statement.
6.6 **Objective Numbering**

CNI's submission (17-2) rightly notes there are existing Objectives 1-8 in the operative RPS which is potentially confusing for RPS users. Staff accept this submission point and recommend amending the objective numbering to follow on from Natural Hazards Objective 31 in the operative RPS. Objective 1 will now be renumbered Objective 32 and so on.

6.7 **Objective 1 (renumbered 32)**

Trustpower Ltd’s submission (16-6) contends Objective 1 goes beyond identifying a resource management outcome to be achieved, and instead seeks to also identify the mechanisms to achieve the outcome. Such mechanisms should be addressed through policies and methods.

Proposed Change 3 should ensure provisions are appropriately framed and recognise that simply copying wording from the Rangitaiki River Document provides no greater direction to resource users as to how the RPS will recognise and provide for the outcomes sought in the higher order document 'on the ground'.

Trustpower seeks Objective 1 be amended to read as follows:

*Tuna within the Rangitaiki River catchment are protected through measures including enhancement and restoration of their habitat and migration paths.*

**Analysis**

It is accepted that Objective 1 could be amended to more specifically define the outcome sought in the context of the RPS being the restoration and enhancement of tuna habitat and migration pathways. This is consistent with Section 6 of the Act and Regional Council’s responsibilities to recognise and provide for the objectives of the River Document to the extent that is consistent with the purpose of the Resource Management Act 1991.

**Staff Recommendation:**

Amend Objective 1 (renumbered 32) to read:

**Objective 32**

*The habitat and migration paths of tuna are restored and enhanced within the Rangitāiki River catchment are protected, through measures including enhancement and restoration of their habitat and migration paths.*

6.8 **Objective 2 (renumbered Objective 33)**

Ravensdown Ltd’s submission (14-1) seeks amendments requested in relation to protection of significant habitats of indigenous fauna is intended to make the objective consistent with s.6 of the RMA. Furthermore, it is considered that enhancement is only required where the habitat is degraded. The amendments proposed mean the objective is the most appropriate way to achieve the purpose of the RMA.

Retain the overall intent of Objective 2 while amending it to read:
“Habitats that support indigenous species and linkages between indigenous ecosystems within the Rangitāiki River catchment are created, protected where significant, and enhanced where degraded.”

Analysis

Objective 2 is recommended to be amended to include “where significant” in relation to the protection of indigenous ecosystems to ensure it is consistent with Section 6(c) of the Act. An amendment has also been made to refer to enhancement “where degraded” which clarifies the intent of the objective and assists interpretation.

Staff Recommendation: Amend Objective 2 (renumbered 33) to read:

Objective 233

Habitats that support indigenous species and linkages between indigenous ecosystems within the Rangitāiki River catchment are created, enhanced where degraded, and protected where significant and enhanced.

6.9 Objective 3 (renumbered Objective 34)

Trustpower Ltd’s submission (16-7) opposes Objective 3 on the basis that it does not define the extent of restoration sought for water quality in the Rangitaiki River Catchment and how this is the most appropriate way to achieve the purpose of the RMA. The accompanying policies also provide no direction on this matter. As such, it is not possible for resource users to ascertain the extent of restoration sought in terms of water quality parameters to be improved and what the potential costs or socio-economic implications may be.

In addition, Change 3 has already noted that water quality in parts of the Rangitaiki River Catchment is already ‘excellent’. This is supported by information provided to the Rangitaiki Freshwater Futures Community Group – which details that water quality in many parts of the catchment is in the ‘A’ attribute state bands for the National Objectives Framework.

Trustpower does not consider that applying a general catch-all objective for restoration across the entire catchment is consistent with the NPSFM or is the most appropriate way to give effect to the RMA. Water quality objectives should be set for individual freshwater management units, taking into account a range of relevant matters.

Trustpower is also concerned Objective 3 may circumvent the process for establishing water quality limits for the Rangitaiki River Catchment via Plan Change 9 to the Regional Water and Land Plan. This is on the basis Proposed Change 3 is only intended to fulfil the requirements of Treaty Settlement legislation and not to implement the NPSFM.

Ravensdown Ltd’s submission (14-2) states the restoration of water quality in the Rangitaiki River Catchment is only required in those parts of the river catchment where it is degraded. Where water quality is already good or excellent, this should be maintained. The amendments proposed mean the objective is the most appropriate way to achieve the purpose of the RMA.

Analysis
Issues 2.12.2.2 and 2.12.2.3 describe concerns with water quality in the catchment. Policy RR 3B identifies the desired level of water quality is one that enables swimming, provides safe drinking water sources and is suitable for holding cultural ceremonies.

The explanation and reasons for this original objective in Te Ara Whānui o Rangitāiki River document state “...so it is safe for people to swim in, take food from, and find drinking water in as many places as possible”, because “the Forum and the community have strong values and expectations for the water to be swimmable, abundant, suitable for ceremonies at places and able to sustain customary food sources. The ability to source safe drinking water in as many places as possible within the catchment is important to the community”.

These values and water quality expectations are consistent with the desired outcomes for the Rangitaiki River in Te Ara Whānui o Rangitaiki, that: Mauri - Mauri of the water is protected; He Awa – We want a clean and healthy environment, characterised by clean water, healthy ecosystem and return of some threatened species. We want to see people use and enjoy this environment for their spiritual, cultural and recreational needs and to celebrate its heritage with pride.

The objective is recommended to be amended to replace the term “restore” with wording which articulates the outcome sought in a measurable way based on current water quality standards. There is a legislative requirement to recognise and provide for the River Document objective which seeks that water quality be restored in the catchment. Recognising and providing for the objective in the context of the Regional Policy Statement involves determining what is meant by restoring the water quality and acknowledging that currently water quality within the catchment is variable.

Objective 3 (renumbered 34) as proposed to be amended is not inconsistent with NPSFM objectives. Objective 3 does not equate to a freshwater objective to be set in regional plans under the direction of the NPSFM Policy A1 and section CA. Use of the term “Freshwater management units” as directed under NPSFM Policy CA1 will also be delivered by way of changes to the Regional Water and Land Plan directed by Policy A1. Changes to the Regional Water and Land Plan must give effect to RPS Rangitaiki River provisions as well as the NPSFM.

Although recommended to be amended, it is considered the intent of the objective remains consistent with that originally notified.

**Staff Recommendation** Amend Objective 3 (renumbered 34) to read:

**Objective 34**

Water quality is restored in the Rangitāiki River catchment is maintained and improved where degraded.

6.10 **Objective 6 (now renumbered 37)**

Trustpower considers that Objective 6 is not consistent with the purpose of the RMA. The direction to ‘recognise and provide for’ kaitiakitanga in the decision-making is stronger than the requirement specified in section 7(a) of the RMA, which requires decision makers to have ‘particular regard’ to kaitiakitanga.

Trustpower opposes Objective 6 on the basis that it is not consistent with the purpose of the RMA and no justification has been provided in the section 32 analysis as to why a stronger directive around the consideration of kaitiakitanga is consistent with the purpose of the RMA.
Analysis

Changes are recommended to provide clearer context to align the practice of kaitiakitanga with section 6(e) of the Act, which requires recognition and provision for the relationship of Māori and their culture and traditions with their ancestral lands, water, waahi tapu, sites and other taonga.

Staff Recommendation

Objective 637

The practice of kaitiakitanga in decision-making is recognised and provided for when managing resources of ancestral lands, water, sites, waahi tapu and other taonga in the Rangitaiki River catchment is recognised and provided for.

Policy RR 3B

Trustpower Ltd’s submission (16-14) states that while Policy RR 3B is generally consistent with the NPSFM, further amendments should be made to ensure that it is consistent with NPSFM Policy CA2. In particular, the policy should focus on establishing water quality limits for ‘freshwater management units’ which is the appropriate unit of measure for water quality rather than a ‘waterway’.

With respect to the particular values that water quality limits will be set for, Trustpower consider the focus should be on ensuring that water quality is suitable for contact recreation (rather than bathing) as this approach aligns with the Schedule 9 of the Regional Water and Land Plan.

Trustpower does not consider provision of drinking water is an appropriate water quality standard for the Rangitaiki River catchment. In this respect, it is not considered that the Rangitaiki River contains any drinking water takes that are protected by the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007.

Analysis

According to the 2016 Register of Drinking Water Suppliers for New Zealand, the Te Teko Spring supplies drinking water to 4,262 people; the Murupara bore supplies drinking water to 2,060 people; other wells, streams and rivers in the Rangitaiki catchment together supply drinking water to 1,651 people in the catchment. Some of these aquifers rely on the Rangitaiki catchment to provide recharge.

Amendments are recommended to replace ‘bathing’ with ‘contact recreation’ in paragraph (a), and ‘contaminants’ with a more general term ‘water quality limits’ to be consistent with both the Regional Water and Land Plan and the National Policy Statement for Freshwater Management. The term “freshwater management units” is not recommended to be included as it is more appropriate to use this term in regional plan provisions that directly give effect to the NPSFM.

Staff Recommendation

Policy RR 3B: Establishing water quality limits for contaminants within the Rangitaiki River catchment
Establish water quality limits for contaminants such as nutrients, sediment and bacteria in waterways within the Rangitāiki River catchment to ensure wherever practicable the water:
(a) is safe for contact recreation bathing;
(b) is suitable for cultural ceremonies;
(c) sustains customary food sources; and
(d) provides safe drinking water sources.

6.12 Policy RR 4B

Trustpower Ltd’s submission (16-15) considers that the policy is vague in its reference to the ‘limits’ of the Rangitaiki River catchment and should be improved to more closely align with the references to limits within the NPSFM. They seek Policy RR 4B be amended to include additional text as follows:

‘Enable the efficient use and development of resources within the environmental flows and/or levels and water quality limits of the freshwater management units for the Rangitaiki River catchment while…

The Galatea-Murupara Irrigation Society submission (13-3) seeks Policy RR 4B be amended to recognise hydro-generation activities within the catchment result in severe, unnatural and frequent variability in flow, which has adverse effects on the natural qualities and stability of banks and margins of the river. Flow variability and erosion are significant issues that lead to a decline in river health.

Analysis

Amendments are recommended in response to the submissions by the Galatea-Murupara Irrigation Society and Trustpower Ltd. Policy RR 4B is focused on the use of land and water within the catchment and recognising the importance of activities on the economic wellbeing of people. The policy recognises that the efficient use of natural and physical resources should be enabled provided that the health of the waterways in the Rangitaiki River catchment is protected. Amendments have been made to the policy to clarify that the limits referred to relate specifically to water quantity and quality. Clause (b) has been amended in recognition that activities can also adversely affect the beds and margins of water bodies. This better reflects the broad scope of effects intended to be captured in clause (b) of the policy.

Staff Recommendation: Amend Policy RR 4B to read:

Policy RR 4B: Enabling the efficient use and development of resources within the Rangitāiki River catchment

Enable the efficient use and development of resources within the environmental flows and/or levels and water quality limits of the Rangitāiki River catchment while:
(a) Having regard to the potential for significant economic, cultural and social benefits to communities within the catchment;
(b) Avoiding, remedying or mitigating adverse effects that land use, discharges, damming, diversion and abstraction activities can have on water quality and quantity and on the beds and margins of waterbodies; and
(c) Encouraging the use of new technology and innovation in improving environmental performance.
6.13 **Method 23E**

Trustpower Ltd’s submission (16-17) seeks amendments to Method 23E to include collaboration with hydro-electricity generators in the preamble text to be recognise they will be integral to the success of any two-way eel access action plan.

As Trustpower is in the process of developing eel passage options for the Matahina Dam, it is important that any action plan or project takes into account the research, trials and results of Trustpower’s investigations in order to reduce duplication of efforts and resources, and collectively achieve the best outcomes for the environment and community.

However, it should be noted that there is no guarantee that Trustpower’s investigations will reveal any more successful options for tuna passage than trap and transfer.

Trustpower also considers that clause (c) of Method 23E does not address two-way tuna access and should be deleted.

**Analysis**

It is accepted that collaboration with the catchments’ hydro-electricity generators is needed for the development of any successful action plan to provide for two-way tuna migration passage. Method 23E is recommended to be amended to specifically include hydro-electricity generators in the preamble text (i.e. relocating from clause (a)) in recognition of the significance that hydro-electricity dams have on tuna migration paths in the Rangitaiki River catchment. Clause (c) of the method is recommended to be deleted as it is not directly relevant to tuna access.

**Staff Recommendation:** Amend Method 23E to read:

**Method 23E: Develop an action plan to provide access for migrating tuna (eel) in the Rangitaiki River catchment**

- Working with hydro-electricity generators and researchers on projects;
- Analysing and conducting research; and
- Making recommendations on restoration programmes; and
- Working with river users to address tuna access.

**Implementation responsibility: Regional Council.**

6.14 **Method 23I**

Fonterra’s submission (7-4) raises concern about what is meant by the term “sustainable flow” as it is not defined in Proposed Change 3, the operative RPS or the NPSFM. The term is not used in Plan Change 9 to the Regional Water and Land Plan. The method also notes that “catchment load limits” are to be developed but it is not clear what contaminants those limits will relate to, or why load limits are mentioned but other types of limit (concentration limits for example) are not.
Further the method does not recognise that targets (limits to be achieved at a future time) might be required and that methods, either regulatory and/or non-regulatory, will be required to achieve those limits and targets (in accordance with NPSFM Policy A2).

Finally, Fonterra notes that matters (a) to (c) do not follow logically from the balance of the method (catchment load limits do not, for example, “include” current state or freshwater objectives) and suggests that some redrafting might aid understanding of the intent.

Fonterra request Method 23I be amended to remove the words "sustainable" and "catchment load" to read as follows:

**Method 23I: Develop environmental flow and contaminant limits in the Rangitaiki River Catchment**

The following shall be identified or established for the Rangitaiki River catchment in accordance with the National Policy Statement for Freshwater Management:

(a) The current state and anticipated future state

(b) Freshwater objective

(c) Limits and/or targets for meeting freshwater objectives, including environmental flows and contaminant limits (either catchment load limits and/or in-stream limits)

(d) Such other methods (regulatory and/or non-regulatory) as may be necessary to improve water quality to achieve limits and targets.

Trustpower’s submission (16-20) considers Method 23I to be in general accordance with the NPSFM but suggest amendments to better align with Policy CA2 of the NPSFM. The submission also notes the NPSFM includes a broader list of matters to be considered than those listed in (a) – (c) including any choices between the values that the formulation of freshwater objectives and associated limits would require. Trustpower considers it inappropriate to list some relevant matters and the provision can appropriately apply without repetition of the matters listed in Policy CA2(f).

Trustpower seek Method 23I be amended the first paragraph and deleting clauses (a)-(c) to read as follows:

Environmental flows/levels and water quality limits for freshwater management units in the Rangitaiki River catchment shall be developed in accordance with the National Policy Statement for Freshwater Management framework.

**Analysis**

Staff agree Method 23I can be amended to use terminology consistent with the NPSFM in order to aid consistent interpretation. Clauses (a) – (c) are recommended to be deleted in recognition that it is unnecessary to duplicate some but not all relevant requirements of the NPSFM. The intent of Method 23I is captured without these clauses.

**Staff Recommendation:** Amend Method 23I to read:
Method 23I: Develop sustainable environmental flow and catchment load limits in the Rangitāiki River catchment

Sustainable development of environmental flows/levels and catchment load water quality limits in the Rangitāiki River catchment shall be developed in accordance with the National Policy Statement for Freshwater Management framework and include:

(a) The current state and anticipated future state
(b) Freshwater objectives; and
(c) Limits for meeting freshwater objectives.

Implementation responsibility: Regional Council

6.15 Method 23Q

Te Pahipoto hapū’s submission (6-32) sought amendments to include hapū, in addition to iwi, in the method. Staff agree it is appropriate that where geographic information sets are being developed for sites of cultural significance it is important that hapū are involved in their identification and in determining the management mechanisms that best suit their relative sensitivities.

Staff Recommendation: Amend Method 23Q to read:

Method 23Q: Support the development of sites and areas of cultural significance geographic information sets within the Rangitāiki River catchment

In co-operation with iwi and hapū support iwi to the development of sites and areas of cultural significance geographic information sets for waahi tapu and waahi taonga sites and areas within the Rangitāiki River catchment which identify:

(a) Publicly known cultural sites or areas with no access restrictions; and
(b) Indicative areas to which access, holding and use protocols apply with the relevant iwi or hapū to ensure culturally appropriate handling of the information.

Implementation responsibility: Regional Council and iwi authorities

6.16 Method 23S

Te Rūnanga o Ngāti Whare’s submission (10-34) requested Method 23S be amended to include provision for consultation with tangata whenua.

Trustpower Ltd’s submission (16-28) considers use of the phrase “where appropriate” is positive as it enables the benefits of the structure to be weighed against the lost recreational or cultural opportunities in making the decision as to whether to require removal. This is important as there may be safety reasons for installing structures such as jetties for safe access to boats, log booms for dam safety or stop banks for flood protection.

Trustpower seeks Method 23S should be amended to:

a) specify the mechanism for requiring the removal of structures;

b) specify the types of structures that will be targeted for removal; and
c) provide guidance as to the circumstances where removal would be considered “impracticable”.

Analysis

Method 23S is aimed at man-made structures within the catchment where their removal or modification would have benefits in improving access for cultural or recreational activities. Depending on the situation the type of structure targeted and mechanism for requiring removal may vary. The use of the term “where appropriate” recognises that a case by case assessment would be required. Specifying the types or structures and mechanisms for their removal may limit the application and scope of Method 23S and in turn limit its application where an appropriate circumstance may arise in future. Policies MN 5B and MN 6B provide guidance on when to encourage and/or restrict public access.

Method 23S is recommended to be amended to include provision for alternative access points and consultation with tangata whenua. Consultation with tangata whenua is appropriate for cultural access matters at the local level.

Staff Recommendation: Amend Method 23S to read:

**Method 23S: Remove or adapt structures impeding cultural and recreational access in the Rangitāiki River catchment**

Where appropriate and in consultation with tangata whenua require the removal of structures that impede cultural and recreational access in the Rangitāiki River catchment. Where removal is impracticable, employ measures to adapt existing structures or provide alternative access points to minimise adverse effects on cultural and recreational access.

*Implementation responsibility: Regional Council and iwi authorities*

**Method 23K**

Trustpower Ltd’s submission (16-21) supports the concept of identifying key sources of pollutants entering waterways in an effort to improve water quality, however they consider the terminology used should be amended to better reflect the requirements of the RMA. They seek Method 23K be amended by replacing "pollutants" with "contaminants" and inserting "management of land uses and" to read as follows:

*Identify key sources of contaminants entering waterways in the Rangitaiki River catchment and encourage better management of land uses and waste management within communities and industries.*

Analysis

In referring back to the original Te Ara Whānui o Rangitāiki Document it is apparent Method K is derived from Action 5.2 which reads:

‘Identify where and how rubbish is entering waterways, and then prevent it by promoting better waste/pollution management with industries and communities.’

Through the process of drafting Proposed Change 3 and considering comments received it appears its original intent has been altered. Action 5.2 relates to the illegal
dumping of refuse in areas where it can enter waterways in the Rangitāiki River catchment. Action 5.2 supports Objective 5 which seeks to recognise and encourage the development of relationships between communities and the Rangitāiki River catchment. Consequently it is considered amendments are required to better align Method 23K with its original intended purpose to address illegal refuse dumping in the Rangitāiki River catchment.

**Staff Recommendation:** Amend Method 23K to read:

**Method 23K:** Identify key sources and locations of **illegal refuse dumping pollutants** in the Rangitāiki River catchment

Identify key sources and locations of **illegal refuse dumping pollutants entering waterways** in the Rangitāiki River catchment and encourage better waste management within communities and industries

*Implementation responsibility: Regional Council and district councils.*

7 **Minor amendments to Proposed Change 3**

Amendments have been made to the Proposed Change 3 to correct typographical, numbering or grammatical errors and to update the Objective numbering to follow on from the existing Operative RPS objectives. These changes have been made both in response to submissions and under s16(2) of the RMA and are shown in the redline strikeout version of Proposed Change 3.

Nassah Steed
Programme Leader (Statutory Policy)

for General Manager Strategy and Science
Appendix 1: List of Submitters

Original submitters

1. Ngāi Tamawera Hapū (Ngāti Awa ki Rangitāiki)
2. Whakatāne District Council
3. Mataatua District Māori Council
4. Timberlands Ltd
5. Te Rūnanga o Ngāti Manawa
6. Te Pahipoto Hapū
7. Fonterra Co-operative Group Ltd
8. Balance Agri Nutrients Ltd
9. NZTA
10. Te Rūnanga o Ngāti Whare
11. Rangitāiki Tarawera Rivers Scheme Liaison Group and Drainage Staff
12. Rangitāiki River Forum
13. Galatea Murupara Irrigation Society
14. Ravensdown Ltd
15. Te Rūnanga o Ngāti Awa
16. Trustpower Ltd
17. CNI Iwi Land Management
18. Federated Farmers
19. James Platt Gow

Further submitters

1. Trustpower Ltd
2. Federated Farmers
3. Fonterra Co-operative Group Ltd
4. Royal Forest and Bird Protection Society
5. Galatea Murupara Irrigation Society
6. Rangitāiki Tarawera Rivers Scheme Liaison Group and Drainage Staff