

IN THE MATTER: of the Resource Management Act 1991
(**RMA**)

AND

IN THE MATTER: of Proposed Plan Change 93 (Te
Puna Springs) to the Western Bay
of Plenty District Plan under
Schedule 1 of the RMA.

STATEMENT OF EVIDENCE OF NATHAN TE PAIRI – PLANNING

1 July 2022

EXECUTIVE SUMMARY

1. I do not support the proposed Plan Change in its current form.
2. The primary reason for this is that Applicant has not demonstrated that there is feasible and appropriate stormwater solution available for the site.
3. The District Plan, which PC93 proposes to amend, must give effect to national policy statements including the National Policy Statement for Freshwater Management (**NPS-FM**), and to the Bay of Plenty Regional Policy Statement (**RPS**). It must not be inconsistent with the Regional Natural Resources Plan (**RNRP**). This is required under ss74 and 75 of the RMA. It must also, of course, fulfil the sustainable management purpose of the RMA and in doing so reflect all of the relevant considerations set out in Part 2.
4. As it stands, PC93:
 - (a) Does not comply with the clear direction in the NPS-FM to avoid loss of stream extent and values. Rather, the proposal will result in the loss of up to 105 m of moderate – high value streams and the values

of the Oturu stream as a result of resuspension.

- (b) Will result in the loss of the indigenous raupo wetland that the Wildlands Report and Keith Hamill (for BOPRC) both conclude has high value, which does not have provide for the protection required under ss6(a) and (c) of the RMA.
 - (c) Has not used the WBOPDC hydrological model to assess the effects of the plan change on the wider catchment, which is of concern given the existing downstream flooding which occurs within the Oturu Creek catchment, and cannot demonstrate compliance with the natural hazard policy direction in the RPS, which requires a low of risk onsite without increasing risk off-site (Policy NH 4B).
 - (d) Cannot accommodate an appropriate stormwater management solution within the footprint identified on the Structure Plan. This is at odds with Method 18 of the RPS (requiring structure plans to provide integrated provision for infrastructure, including how increased stormwater will be managed) and RPS urban growth and natural hazard direction.
 - (e) Is inconsistent with Policy 3 of the NPS-FM which seeks to ensure that freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.
5. A robust analysis of alternative methods of avoiding, remedying or mitigating effects of stormwater discharges has not been undertaken, as required by s32 of the RMA. Nor do I consider that the proposal appropriately responds to the scale and nature of the environmental, economic, social and cultural effects that are anticipated, which is also required under s32 of the RMA.
6. I do not agree that the management of water quality, water volume and ecology effects arising from the plan change should be left entirely to future consenting processes, with Structure Plans providing only scant detail. As Ms Ira notes, “[t]he resource consent process is prescriptively narrow and considering catchment-wide cumulative effects from stormwater discharges is

challenging at best". This has not proven to be an appropriate mechanism in the past, including in the Te Puna area, which has been a contributing factor to the constraints now faced by the PC93 site. These issues should not continue to be pushed downstream.

7. If the Applicant were able to demonstrate that an appropriate stormwater solution could be accommodated and the Structure Plan accepted, I still consider it to be necessary for provisions to be included that require, among other things, the preparation for certification of a Stormwater Management Plan to guide future development and consenting, and to provide some certainty for the applicant and the community (including surrounding landowners).
8. However, I do not consider that planning provisions alone could address the absence of comprehensively designed stormwater solution or appropriately manage the location, design that would give effect to the relevant provisions NPS-FM. As above, the Structure Plan layout needs revisiting in order to comply with policy direction and meet the purpose of the RMA.
9. For convenience, I set out the provisions that I refer to in this evidence at **Appendix 1**.

INTRODUCTION

Qualifications and experience

10. My full name is Nathaniel George Te Pairi. I have held the position of Planner at the Bay of Plenty Regional Council ('the Regional Council') since August 2019.
11. I have 16 years' experience as a planner in New Zealand and the United Kingdom on a range of large scale residential and commercial consenting projects for the London Borough of Tower Hamlets. I also prepared recommendation reports on behalf of the Planning Decisions Team for the London Olympic Games in 2012. I have completed a recognised planning qualification.

12. I can confirm I have expertise in policy planning having worked on the Auckland Unitary Plan for Auckland Council on a range of topics and have assisted in preparation of spatial planning processes as precursor to structure planning.
13. Since joining the Regional Council I have worked in the planning related matters to stormwater management, natural hazards, and implementation of NPS-FM. I currently lead the implementation of the council's RPS and to a lesser extent the, Regional Natural Resources Plan in changes to city and district plans in Tauranga City, the Rotorua Lakes District and the Western Bay of Plenty District. I also led a review of the natural hazard provisions in the Regional Policy Statement in 2020 to 2021.
14. On related matters, I have provided planning evidence on behalf of Regional Council on Plan Change 2 (Pukehangi Heights) to the Rotorua District Plan, and on Proposed Plan Change 27 to the Tauranga City Plan. As part of my involvement in PC2 I assisted to develop provisions to address stormwater management, and these were endorsed by the Independent Commissioners in the Decision.
15. I am an associate member of the New Zealand Planning Institute and have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014 and agree to comply with it.
16. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where I state I am relying on the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from my expressed opinion.

Background

17. The Plan Change seeks to rezone rural land to the Commercial zone and includes some provisions related to the management of land use effects. Of note, the plan change did not include provisions to manage stormwater effects and was notified without the benefit of an ecology report or a natural hazard risk assessment as required by the BOP RPS.
18. BOPRC sought by way of submission (4 February) that the plan change

responds appropriately to address wastewater, ecology, water quality and volume and natural hazard risk. Following receipt of the WBOP councils' resolution to make capacity available to the subject site, I have no further concerns regarding our submission point. However, I do support relief sought by the Toi Te Ora to avoid effects on human health.

19. BOPRC has had an opportunity to review further information including and ecology report (19 May) and memo addressing stormwater (31 May) and provided a response on 10 June, subsequently meeting with the applicant's planner, stormwater advisors and ecologists on 16 June.
20. In principle, some amendments were considered to reduce small portions of the new commercial zone to provide for buffers to the streams on the southern portion of the site. However, overall, the proposed changes do not sufficiently address the concerns raised and PC93 in its current form (per the evidence) remains opposed.

Scope of evidence

21. My evidence will focus on the Planner's Report topics, which correlates to the matters raised in the BOPRC submission. Specifically, I will address:
 - a. Topic 3: Structure Plan Map
 - b. Topic 8: Stormwater
 - c. Topic 10 Natural Hazards
 - d. Topic 11: Freshwater and Ecology
 - e. Topic 9: Wastewater
22. Within each of these topics I will address the relevant higher order policy direction and will provide a planning assessment of the extent to which PC93 gives effect to these directions as required under the RMA (ss74 and 75). I will also comment on the extent to which I consider the s32 tests have been addressed.
23. I have relied on the evidence of Sue Ira, Keith Hamill, and Kathy Thiel-Lardon

in preparing this evidence. I have reviewed the Application and supporting technical assessments, and all submissions relevant to the issues that BOPRC has raised with PC93.

RESPONSE TO PLANNERS REPORT

Topic 3: Structure Plan Map

Structure Planning

24. In considering proposals to urbanise land, it not uncommon to undertake a process to identify and resolve competing priorities i.e., land use and stormwater or ecology. A plan change can be supported a by structure plan process.
25. Relevant policy direction requires co-ordination and integrated management of effects (including cumulative effects) for large scale land use changes that is of direct relevance to PC93:
 - a. Policy IR 5B requires regard to be had to the cumulative effects of proposed activities in contributing to, among other things, incremental degradation of water quality from point source and non-point source discharges, including urban stormwater and increased risk from natural hazards.
 - b. Policy UG 9B seeks to ensure there is co-ordination of new urban development and other infrastructure.
 - c. Policy UG 4A infer proposals over 5(ha) are structure planned.
 - d. Method 18 requires the preparation of structure plans for all large-scale land use changes to ensure coordinated development through the integrated provision of infrastructure; and integrated management of related environmental effects (refer **Appendix 1**).
26. I support use of a structure plan to avoid the further proliferation of ad hoc

development and piecemeal infrastructure solutions in the Te Puna area.

27. Importantly, the Structure Plan process provides an opportunity for the community and affected parties to understand and resolve land use tensions and development issues, including stormwater management. In my view, this has not occurred.
28. Consenting processes including discharge consents are prescriptively narrow when compared with the plan change process (informed by structure planning). When compared with integrated and co-ordinated development enabled through a structure plan process, consenting is a 'limited' pathway and cannot influence layout or fundamental land-use decisions. This is the role of a structure plan and is commonly considered as best practice in Aotearoa for developing greenfield areas.
29. Further, and in my view, this is particularly important for Te Puna where:
 - a. there is a known history of flooding in the area and the subject site contains an overland flow path that receives flows of reasonable velocity from the upper catchment – this may suggest why this land was not zoned commercial in the past i.e., it is a marginal site.
 - b. the Te Puna Commercial area has been the subject of unplanned and, ad-hoc development, leading to lack of integration and, as a result, has become a subject of interest between the community, landowners and the council; and
 - c. the subject site includes streams, which are afforded protection under the NPS-FM, and a wetland with high values warranting protection under s6 of the RMA.
30. For the above-mentioned reasons, I consider it is necessary and logical method for the entire site to be planned and developed in a comprehensive and integrated manner via the structure plan process. I support a structure planning approach to this site.

Planner's Recommendation

31. The Planner's Report recommends option 3, which is to make amendments to the Structure Plan map in response to submissions and make minor amendments to correct details. These include amendments made in response to concerns raised by the Regional Council, including in relation to flood conveyance and stormwater management and provision of a sustainable stormwater and wastewater solution.
32. For the various reasons outlined in this evidence, the Structure Plan map is not supported. The relatively minor amendments made in response to submissions have not addressed the concerns raised. However, the Regional Council's concerns remain outstanding.

Topic 8: Stormwater

Alternatives

33. Section 32 of the RMA sets out the matters to be considered in an evaluation report and requires that an evaluation must examine whether, having regard to efficiency and effectiveness, the provisions are the "most appropriate" way to achieve the purpose of the Act and the relevant objectives of the District Plan and the plan change.
34. In establishing that they are the most appropriate, other reasonably practicable options are to be identified. The report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
35. The s32AA assessment of changes to the proposal needs to follow the same approach.
36. The Planner's Report cites these requirements, but it is not clear how they have been applied or the s32 report critically assessed. The application contains an assessment of alternatives at 8.4, that focusses on alternative *planning methods* to achieve the purpose of the RMA rather than what other

reasonably practicable alternatives to the proposed changes sought within the plan change might be.

37. A robust assessment of alternatives takes on greater importance and warrants a greater level of detail and consideration given the proposed commercial zoning is likely to result in increased discharge in contaminants to the Oturu Stream and other waterbodies identified on the site.
38. In light of the conclusions reached by the Regional Council's technical experts on the scale and significance of the effects anticipated from the implementation of the proposal, I do not consider that the proposed plan change and supporting evaluation, or the Planner's Report, have adequately assessed the proposal or alternatives.
39. I do not consider that PC93 or its provisions are the most appropriate method.

Planner's Recommendation

40. The Planner's Report appears to recommend Option 2, although that is not explicitly stated, and suggests that this results in the Regional Council's submission being accepted. I do not agree.
41. Further, the amended proposal (including as amended in the Applicant's evidence) does not address the concerns raised by the Regional Council.
42. The reasons are addressed in greater detail in the evidence of the technical experts provided on behalf of the Regional Council, on which I rely. In summary:
 - a. A feasibility study has not been undertaken which provides any degree of certainty that there is suitable space within the green space to construct an appropriate stormwater solution within the extent of the commercial zones, without resulting in the loss of streams and wetlands¹;
 - b. In the absence of catchment-wide modelling, it is unclear how the

¹ Kathy Thiel Lardon for BOPRC paras. 45 and 46

cumulative stormwater run-off effects are managed to ensure down stream risk is not increased²;

- c. A robust options analysis has not been undertaken, and viable alternatives, through the use of a holistic water sensitive design approach, not considered³;
- d. The location of the proposed stormwater infrastructure would result in the loss of streams, contrary to the directions in NPS-FM⁴;
- e. The loss of the raupo wetland has not been sufficiently considered or addressed, notwithstanding that its protection is a matter of national importance under ss6(a) and 6(c)⁵;
- f. Stormwater ponds are not considered to be best practice for Stormwater Management⁶;
- g. Effects on the Oturu stream system itself, resulting from the construction and operation of the on-line detention pond, have not been considered⁷.; and
- h. Discharge consents are not an appropriate pathway to determine the sizing of stormwater infrastructure.

Consideration of other feasible alternatives

- 43. Based on the evidence of Ms Thiel-Lardon and Keith Hamill, I do not consider that a feasible stormwater solution could be accommodated within the area identified for stormwater management without resulting in a loss of streams or wetlands.

² Ibid 47

³ Sue Ira para. 31

⁴ Keith Hamill for BOPRC paras. 25 and 27

⁵ Ibid

⁶ Sue Ira for BOPRC paras. 26-29

⁷ Ibid para 30

44. Further concerns are raised by Kathy Theil Lardon with regards to the impacts on downstream infrastructure as well as impacts on the proposed commercial zones, particularly in the south, from geotechnical risks related to the anticipated sizing of the stormwater infrastructure to manage peak events.
45. I consider that there are a range of options that could be considered by the applicant to address this matter. However, they are all likely to involve reduction in the commercial zones, which the applicant has to date refused to entertain.
46. In my view, a reduction in the commercial zones to enable an appropriately sized and designed stormwater solution would better give effect to the objective of the NPS-FM which requires the management of natural and physical resources in a way that prioritises the health and well-being of water bodies and freshwater ecosystems ahead of the ability of people and communities to provide for their social and economic wellbeing. In my opinion, this requires a fundamentally different approach from what may have occurred in the past.
47. This is supported further in a land use context by the integrated management provisions of the NPS-FM:

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

Clause 3.5 Adopting an integrated approach, ki uta ki tai, as required by Te Mana o Te Wai, requires that local authorities must:

....

(c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments;

(4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of

water bodies, freshwater ecosystems, and receiving environments.

48. In reaching this conclusion, I have considered the extent to which other methods, such as new planning provisions, the operative District Plan or future consenting processes could address the concerns raised by the Regional Council. For example, whether the issues could be resolved via provisions requiring the development of a comprehensive Stormwater Management Plan (which I have supported in the context of Proposed Plan Change 94).
49. However, I do not consider this is appropriate in the context of PC93. In this instance the effects are anticipated to be greater and fundamental concerns that need to be addressed at the district planning, structure plan stage, would remain unresolved.

Reliance on consenting process alone to manage stormwater effects

50. In summary, I do not consider a discharge consent in the BOP RNRP (DW R8, DW R21 and DW R23 see **Appendix 1**) would appropriately manage the effects arising out of PC93 because:
 - a. It is not sufficiently prescriptive to respond to the particulars of the site or necessarily, the effects arising from the entire plan change area or the wider catchment.
 - b. It would not provide certainty that the effects identified at the plan change would be addressed once implemented later in the development process.
 - c. It would not provide certainty that stormwater mitigation be implemented as anticipated at the structure plan.
 - d. It should not be relied upon as a means to determine the sizing of stormwater infrastructure or other necessary mitigation for the plan change.
 - e. It may not be an appropriate mechanism to manage stormwater if changes to ownership occur and piecemeal stormwater solutions eventuate.

51. To provide certainty for all, particularly future landowners and operators, and the community, a feasible stormwater design should be secured as part of any greenfield proposal and not deferred to the consenting stage.
52. One of the benefits of this approach is to protect future landowners from unexpected issues and costs of managing unresolved stormwater issues and, to protect the environment and the values of the Oturu Stream for the benefit of the community.

Topic 10: Natural Hazards

53. The natural hazard policies in the RPS seek to manage natural hazard risk across the region. Many district plans across the region have yet to give full effect to the natural hazards directions, and this includes the WBOP District Plan. This includes updated mapping and methods to address natural hazard risk as well as accounting for climate change.
54. Until such district plans are reviewed, as required by NH 8A to manage natural hazard risk, Policy NH 9B(a) of the RPS (see **Appendix 2**) requires a risk assessment to prepared proposals for change of land use on an urban site of more than 5(ha).
55. The Planning Report “discounts” the land on the site that is already zoned commercial and concludes that, as the area to be rezoned is 0.3 ha shy of the 5 ha (at 4.7566 ha), there is a discretion whether or not to require a risk assessment. The planner relies on advice from the Utilities department to the effect that flood hazard is not an issue and so a risk assessment is not required.
56. Firstly, I consider that Policy NH 9B does require. The entire site is subject to the Structure Plan, and is to be managed in an integrated manner, including the 1.16 ha that has commercial zoning. The structure plan area exceeds 5ha.
57. Even if the planner was correct about how Policy NH 9B should be applied, I consider it inappropriate to exercise a discretion to not require an assessment in these circumstances. The reasons for requiring this approach for proposals 5ha or larger apply equally to an area that is 4.7566. Further, a risk assessment should

have been considered an important requirement in light of the concerns raised by submitters and the flooding issues experienced in the area. Adding to this, there is a presence of overland flow paths through the site, a history of flooding issues identified in the submissions, and the fact that the area is not covered by Comprehensive Stormwater Consent.

58. In any case, I consider Policy NH 4B is particularly relevant to the consideration of the proposal. This is not by the reporting planner in the s.42a report or by the applicant's planner.

59. Policy NH 4B (managing risk) seeks that plan changes:

Require a Low natural hazard risk to be achieved on development sites after completion of the development (without increasing risk outside of the development site) by controlling the form, density and design of

(a) Greenfield development;

(b) Any urban activity within the existing urban area that involves the construction of new and/or additional buildings or reconstruction of or addition to existing buildings (including any subdivision associated with such activities); and

(c) Rural lifestyle activities;

60. The proposal would need to ensure that risk does not increase on downstream infrastructure, including Borrell and Armstrong Road, as identified by Kathy Theil-Lardon in her evidence.

61. In the absence of a risk assessment as required by Policy NH 9B, or a feasible option for stormwater management that takes into account catch-wide upstream flows or the constraints identified in the technical evidence for the Regional Council, I cannot arrive at a conclusion as to whether the proposal would give effect to the RPS, particularly Policy NH 4B.

Topic 11: Freshwater and Ecology

62. The Planner's Report recommends that an ecological assessment is undertaken, and consideration given to NPSFM and NES with provisions included to manage water quality and ecology. The Planner then appears to conclude that the recommendations to the Structure Plan proposed by the Applicant be made to show a buffer area and riparian restoration recommendations.

63. The NPS-FM requires that freshwater quality within a region be maintained or improved and places a focus on water quality, water quantity and integrated management of freshwater.

The sole objective of the NPS-FM requires the management of resources in a way that prioritises:

- (a) the first, the health and well-being of water bodies and freshwater ecosystems
- (b) second, the health needs of people (such as drinking water)
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

64. This hierarchy of obligations sits within the “fundamental concept” of Te Mana o Te Wai. This is a new approach to management of our resources that is water-centric.

65. I consider Policies 3 and 6 of the NPS-FM to be particularly relevant to the plan change. Those provisions require the avoidance, to the extent practicable, of the loss of river extent and values and integrated management of freshwater that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

66. Clause 3.24 provides greater detail on how Policy 6 is to be given effect. As part of this it requires regional councils to insert directly into their plans the following policy, which is now Policy IMP1A of the RNRP (which PC93 must not be inconsistent with):

IM P1A The loss of river extent and values is avoided, unless the council is satisfied:

- (a) that there is a functional need for the activity in that location; and
- (b) the effects of the activity are managed by applying the effects management hierarchy.

67. In my opinion, the stormwater proposal for PC93 would not have a functional need to be located in-stream. This is an onerous test. There are viable alternative locations outside the stream. Further, even if the applicant were to establish that

they had a functional need to locate in the stream (which I consider to be unlikely), they would need to demonstrate compliance with the effects management hierarchy, which requires as its first step the avoidance of adverse effects where practicable.

68. Keith Hamill and Sue Ira conclude that there will be a loss of extent and values of the stream within the site and of the Oturu stream due to resuspension. No regard has been had to this in the evidence of the Applicant or in the application. The application does not even identify the NPSFM as a relevant national policy statement (at 6.1.2). Nor has the Planner's Report engaged with these directions.
69. The proposed plan change will not give effect to the NPS-FM and will be inconsistent with the RNRP.

Topic 9: Wastewater

70. I support the submission⁸ by Toi Te Ora that seeks to ensure that the wastewater is appropriately managed for the structure plan and to achieve the relevant purpose of the RMA, (s)(5)(2) to; *'enable communities to provide for their social, economic, and cultural wellbeing and for their health and safety.'* The Regional Council submission also sought a sustainable wastewater solution for the site.
71. I support connection to the Council's wastewater reticulation in preference to management of wastewater onsite.

RESPONSE TO THE APPLICANT'S EVIDENCE

72. I do not consider that any of the provisions proposed by Mr Collier or others in evidence for the Applicant address the fundamental layout concerns raised in the Regional Council's evidence. I also do not consider the provisions of the WBOP can be relied on to address these fundamental issues.
73. Should a scheme be developed to address the more fundamental concerns, I would then consider it appropriate to understand to what extent, existing and new provisions would address manage the effects of a viable option.

⁸ Submission 2

Mapping of streams and structure plan layout.

74. Mr Collier considers that accurate mapping of streams and wetlands for the plan change can be undertaken at a later date⁹. To achieve this, he relies on a method (Method 12.4.9.1) in the WBOP DP.
75. In my view delaying accurate mapping would not be the most appropriate way to achieve the policy direction of, '*avoiding loss the extent and values of streams*' as required by the NPS-FM, particularly for this small and marginal site, where zoning, stormwater infrastructure and watercourses are proposed in close proximity to each other.
76. Having visited the site with our ecologist, I consider this a straightforward exercise and, essential to correctly map waterbodies to inform the layout of the structure plan. Without such an assessment, I do not consider it is possible to clearly delineate the extents of new commercial zones, provide suitable space for stormwater infrastructure without land-use conflicts arising once the structure plan is implemented.
77. This is precisely the issue for this plan change and the basis of the Regional Council's opposition.

Response to ecological relief – riparian margins

78. I have considered extent which provisions offered¹⁰ by Mr Collier and Fiona Wilcox manage effects on riparian margins and streams. For the reasons identified above, I do not consider this to be an appropriate method of mitigation.
79. In my view, this issue should be to revisited. Appropriate addressing ecological effects is likely to necessitate a reduction of the commercial land.

Stormwater management plan

⁹ See para 4.5 of Mr Collier's statement

¹⁰ See para 5.12 of Mr Collier's statement

80. In my opinion, were the more fundamental issues with the Structure Plan to be adequately addressed, the Plan would still need to be accompanied by a comprehensive set of objectives, policies and rules to require the preparation of, and compliance with, a Stormwater Management Plan. This would be needed for the various reasons outlined in this evidence and the evidence of the Regional Council's technical experts, to ensure comprehensive management of cumulative effects of stormwater in a way that provides ongoing certainty to landowners and the community and to achieve environmental outcomes.
81. Such provisions would closely mirror those that I have provided in my evidence for PC94 (Washer Road). I have not progressed a set of provisions for PC93 given the timing constraints and fundamental opposition to the proposal, as currently framed.

CONCLUSION

82. Despite attempts to try to work with the Applicant to resolve the fundamental issues the Regional Council has with Proposed Plan Change 93, no agreement has been reached.
83. Proposed Plan Change 93, as it is currently proposed, is not supported. It does not give effect to national policy direction or the RPS, as it is required to under ss74 and 75 of the RMA. It is not consistent with the RNRP. It will not promote the sustainable management purpose of the RMA. The extent of commercial zoning needs to be reconsidered and an appropriate stormwater solution identified that will avoid loss of stream extent and values, appropriately address the loss of the raupo wetland, and ensure that natural hazard risk is not increased outside the site.

Nathan Te Pairi

1 July 2022.

APPENDIX 1: Relevant Provisions.

Bay of Plenty Regional Council.

Policy IR 2B: Having regard to the likely effects of climate change

Recognise and provide for the predicted effects of climate change having particular regard to:

- (a) Predicted increase in rainfall intensity, taking account of the most recent national guidance and assuming a minimum increase in the annual mean temperature of 2°C by 2090 (relative to 1990 levels); and
- (b) Predicted increase in sea level, taking into account the most recent national guidance and the minimum sea-level rise projections in Policy NH 11B.

Explanation

Known risks associated with climate change are to be considered in association with the planning of subdivision, use and development. Climate change effects should be considered in association with resource consents and plan change processes. Adaptation and forward planning is necessary to mitigate or avoid risks associated with climate change.

National guidance figures in Policy IR 2B are from the Ministry for the Environment guidance manual on climate change, 'Preparing for Climate Change - a guide for local government in New Zealand (2008)', from available data at the time. The 2oC increase in annual mean temperature is a mid-level projection of future temperature changes and may be refined in future.

Table reference: Objective 11, Method 3

Policy IR 3B: Adopting an integrated approach

Adopt an integrated approach to resource management that:

- (a) Recognises the interconnected nature of natural and physical resources, including as they adjust to changes;
- (b) Recognises the multiple values of natural and physical resources;
- (c) Responds to the nature and values of the resource and the diversity of effects (including cumulative and reverse sensitivity effects) that can occur;
- (d) Seeks to maximise benefits by considering opportunities to align interventions (including regulatory and non-regulatory) and/or to achieve multiple objectives;
- (e) Encourages developments, activities or land-use changes to:
 - 1 Provide for the relationship between land use and water quality and quantity
 - 2 Recognise the advantages and constraints of land use capability;
 - 3 Provide for infrastructure and;
 - 4 Benefit the economic wellbeing of communities.
- (f) Takes a long term strategic approach which recognises the changing environment and changing resource use pressures and trends;
- (g) Applies consistent and best practice standards and processes to decision making; and
- (h) Recognises different community values and social needs;

and regards these as positive effects.

Explanation

Integrated resource management requires a holistic view that looks beyond organisational, spatial or administrative boundaries. For integrated management to be effective and efficient it requires a coherent and consistent approach and that agencies or organisations involved in resource management work together in a collaborative manner. This is because there is overlap in the functions of local authorities and also resources and issues that cross jurisdictional boundaries.

Sustainable land management requires integrating the development and use of the land

with the attributes of its wider environment: the availability of water and its capacity to receive contaminants without adverse effects, the ability of the land to retain its physical qualities while supporting the use, and recognition of and provision for the wider environment within which the activity occurs.

*Table reference: Objectives 10, 11 and 14, Methods 3, 9, 11, 41, 47 and 70**

Policy IR 5B: Assessing cumulative effects

Give regard to the cumulative effects of a proposed activity in contributing to:

- (a) Incremental degradation of values of sites identified as having high natural character (in accordance with Policies CE 2B and CE 8B);
- (b) Incremental degradation of matters of significance to Māori including cultural effects (in accordance with Policy IW 5B);
- (c) Incremental degradation of water quality from point source and non-point source discharges including urban stormwater;
- (d) Inefficient use of space associated with sprawling or sporadic new subdivision, use or development;
- (e) Incremental degradation of scenic values, amenity, open space, recreation and the general use and enjoyment by the public;
- (f) Adverse impacts on coastal processes, resource or values, biodiversity and ecological functioning;
- (g) The availability of freshwater resources;
- (h) Increased risk from natural hazards;
- (i) The loss of versatile land for rural production activities;
- (j) Effects on the function, efficiency and safety of infrastructure; and
- (k) Social and economic wellbeing.

Explanation

Policy IR 5B recognises that it is often the cumulative effects of a variety of processes and activities (both natural and human induced) that have significant impacts on a range of regionally significant resource management issues. For example, impacts on the natural character of the coastal environment, wetlands, lakes and rivers

and their margins. Also, the effects of urbanisation outside urban limits or zones can adversely impact on the ability to undertake rural production activities which should be a predominant land use in rural areas. In the case of natural character, cumulative effects should be considered when making decisions on any activity in the coastal environment, wetlands, lakes and rivers and their margins to ensure that natural character, open space and amenity values are not incrementally degraded. This will allow opportunities for restoration to be considered in places which, although compromised, are not considered to be degraded beyond repair.

Table reference: Objectives 10 and 11, Methods 3 and 10

Policy NH 4B: Managing natural hazard risk on land subject to urban development

Require a Low natural hazard risk to be achieved on development sites after completion of the development (without increasing risk outside of the development site) by controlling the form, density and design of:

- (a) Greenfield development;
- (b) Any urban activity within the existing urban area that involves the construction of new and/or additional buildings or reconstruction of or addition to existing buildings (including any subdivision associated with such activities); and
- (c) Rural lifestyle activities;

except that a Low level of risk is not required to be achieved on the development site after completion of the development where the development site is located within a natural hazard zone of Low natural hazard risk and that natural hazard zone will maintain a Low level of natural hazard risk after completion of the development.

Explanation

In general, the purpose of Policy NH 4B is to ensure that wherever and whenever new urban development (or redevelopment) occurs it is designed and built to achieve Low natural hazard risk. This applies regardless of whether a plan specifically provides for the activity or not.

Importantly, the policy requires consideration of natural hazard risk at the scale of the

“development site”. That term is defined and confines the consideration of risk to that area of land where development is proposed.

Consideration at the site scale avoids the risk associated with new development being distorted by an existing level of risk that might exist elsewhere in the natural hazard zone.

An important exception to that general policy approach is that a Low level of risk need not be achieved on a development site as a result of development provided that after completion of the development the risk level within the natural hazard zone remains Low. This can only be achieved within a natural hazard zone that has a pre-existing natural hazard risk that is Low. It means that on some development sites achieving a Low level of risk may not be necessary. This provides an element of flexibility to future land development and is consistent with Policy NH 3B and the explanation of that policy as set out in this Statement.

Options for reducing natural hazard risk may take many forms. Some potential risk reduction measures are set out in Appendix M.

Requiring new development or redevelopment to achieve a Low level of risk will, over time, reduce aggregate risk over a natural hazard zone that may be subject to risk that exceeds the Low level.

City and district councils and the Regional Council will need to either require those undertaking development or redevelopment of land to undertake risk management as part of that development process (consistent with Policy NH 4B) or ensure development achieves low natural hazard risk through the provisions of district and regional plans (consistent with Policy NH 12A).

There may be extraordinary circumstances where new development (or specific urban activities within such development) can appropriately be subject to greater than Low natural hazard risk. Those situations are addressed by Policy NH 6B.

Table reference: Objective 31, Methods 3, 18 and 23A

Policy NH 9B: Assessment of natural hazard risk at the time of subdivision, or change or intensification of land use before

Policies NH 7A and NH 8A have been given effect to

Before a district or, where applicable, regional plan gives effect to Policies NH 7A and NH 8A, assess natural hazard risk associated with a development proposal to subdivide land or change or intensify land use using the methodology set out in Appendix L where:

- (a) The subdivision of land or the change or intensification of land use is proposed to occur on an urban site of 5 ha or more; or
- (b) The relevant consent authority considers risk assessment appropriate having regard to:
 - (I) the nature, scale and/or intensity of the activity,
 - (II) the location of the development site relative to known hazards,
 - (III) the cumulative effect on risk of developments on sites less than 5 ha,
 - (IV) the nature and extent of any risk assessment that may be required under, or incorporated within, the operative district or regional plan,

except that the obligation to assess the risk of the natural hazard under this policy shall not arise where the risk derives from a geothermal hazard which is managed under this Statement’s section 2.4 and the Geothermal Resources Policies and Methods.

Explanation

Although Policy NH 8A requires risk assessment in the context of the development of district plans (and any regional plan controlling land use), there are other circumstances when it is appropriate to assess natural hazard risk. Policy NH 9B defines the circumstances when risk assessment for a development proposal is appropriate in the interim period before district and regional plans give effect to policies NH 7A and NH 8A (“the interim period”).

The scale and the nature of development are important as they determine the potential consequences of a hazard event. For that reason, Policy NH 9B applies a threshold test of developments or redevelopment on sites of 5 ha or more. Moreover, such developments represent a significant change to the urban environment and offer an opportunity to “design-in” measures that can achieve a Low level of natural hazard risk.

While large-scale development proposals ought to involve an assessment of natural hazard risk as a matter of course, there may well be other smaller scale developments that should also be subject to risk assessment in the interim period. Policy NH 9B should not foreclose the opportunity for city and district councils to exercise discretion at the time of any resource consent application, notice of requirement or private plan change to require an assessment to be undertaken under Appendix L. Policy NH 9B (b) sets out the matters that will be relevant for a city or district council to consider when deciding whether to exercise that discretion.

Policy NH 9B also provides that risk assessment does not need to be undertaken when the natural hazard is managed under section 2.4 in this Statement. Note that section 2.4 and its associated Geothermal Resources Policies and Methods do not manage non-geothermal hazard risks to which a geothermal system, by its location, might be susceptible (e.g. tsunami or flooding). Those non-geothermal risks require assessment under this policy.

Table reference: Objective 31, Methods 3, 18 and 23A

Method 18: Structure plans for land use changes

Prepare structure plans for all large-scale land use changes to ensure:

- Coordinated development through the integrated provision of infrastructure; and
- Integrated management of related environmental effects.

Structure plans shall, as appropriate and applicable:

- (a) Identify land which is to be used or developed for urban purposes;
- (b) Identify intensification areas;
- (c) Show proposed land uses, including:
 - (i) Arterial and collector roads, rail and network infrastructure
 - (ii) Residential, commercial and business centres
 - (iii) Schools
 - (iv) Parks
 - (v) Land required for recreation
 - (vi) Land to be reserved or otherwise set aside from development for environmental protection purposes

- (vii) Appropriate infrastructure corridors
- (viii) Community, health and social service facilities, including those necessary to cater for an ageing population.
- (d) In respect of proposed land uses (see (c) above), demonstrate the live-work-play principle to development;
- (e) Show how the target yields set out in Policy UG 4A will be met;
- (f) Identify all existing and consented, designated or programmed infrastructure and infrastructure corridors;
- (g) Identify infrastructure requirements, including the provision of and responsibility for that infrastructure;
- (h) Identify all known contaminated sites that land to be used for urban purposes may contain and show how adverse effects from contaminated land are to be avoided, remedied or mitigated;
- (ha) Identify all known natural hazards that land to be used for urban purposes may be subject to, or contain, and show how low natural hazard risk is to be maintained or achieved;
- (i) Identify significant cultural, natural and historic heritage features and values and show how they are to be protected;
- (j) Identify significant view shafts to be maintained and enhanced through the avoidance of inappropriate development;
- (k) Show how any adverse effect of increased stormwater runoff is to be mitigated;
- (l) Show how other adverse effects on the environment and infrastructure are to be avoided, remedied or mitigated;
- (m) Show how provision has been made for public transport, cycleways and pedestrian connections;
- (n) Document consultation undertaken with persons (including tangata whenua) affected by or interested in the proposed land uses, and any response to the views of those consulted;
- (o) Show how the sequencing of urban growth requirements detailed in Policy UG 6A will be achieved;
- (p) Include Urban Design Plans which:
 - (i) Apply and demonstrate adherence to the New Zealand Urban Design Protocol (March 2005) Key Urban Design Qualities;
 - (ii) Outline the urban design objective and rationale;

- (iii) Provide an analysis of context;
- (iv) Provide a site analysis; and
- (v) State design outcomes for the proposed development.

“As appropriate and applicable” is intended to allow the content of a structure plan to be tailored

to the nature and scope of the development proposal to which it relates and, to give effect to this Method, District plans can identify methods for assessing which of the above matters must be addressed, in light of the particular scope of the proposed land use change and its environmental effects. *Implementation responsibility: Regional council, city and district councils.*

Regional Natural Resources Plan: rules	
DW R21	<p>Restricted Discretionary – Discharge of Stormwater to Surface Water</p> <p>The discharge of stormwater to surface water, or to land where the discharge enters surface water, where the rate of discharge is greater than 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm) is a restricted discretionary activity subject to the following conditions:</p> <ul style="list-style-type: none"> (a) The suspended solids concentration of the discharge shall not be greater than 150g/m³, except where a 10 minute duration 10% AEP storm event (10 year return period storm) is exceeded. (b) The discharge shall be substantially free of grease, oil, scums and foam. (c) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored. (d) The discharge shall not cause or induce erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes: <ul style="list-style-type: none"> (i) Instability of land or the banks of the surface water body. (ii) Scour to the bed of the surface water body. (iii) Damage to the margins or banks of the surface water body. (e) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person. (f) The discharge shall not contain hazardous substances, or substances that are toxic to aquatic ecosystems (as measured relative to the ANZECC Guidelines for Fresh and Marine Water Quality, 200025). (g) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process. (h) The discharge shall not cause a conspicuous change in the colour of the receiving waters. (i) Where the discharge is to a part of a receiving water body that is classified as Water Supply, the discharge shall not contain any substance that renders the water unsuitable for treatment (equivalent to coagulation, filtration, disinfection and micro-filtration) for human consumption. <p>This activity is also subject to the requirements of the rules in the Rotorua Lakes section of this regional plan.</p> <p>The Regional Council restricts its discretion to the following matters:</p> <ul style="list-style-type: none"> (a) Management and maintenance of the stormwater system to achieve the rule conditions. (b) Measures to avoid, remedy or mitigate the adverse effects of the stormwater discharge on: <ul style="list-style-type: none"> (i) Erosion or land instability. (ii) Water quality.

	<ul style="list-style-type: none"> (iii) Flooding of land owned or occupied by another person. (iv) Aquatic ecosystems, indigenous flora and fauna, and the migration of fish species. (v) Users of the water body, including recreational use. (vi) Sites of significance to tangata whenua. <p>(c) The administrative charges under section 36 of the Act.</p> <p>(d) Monitoring requirements.</p>
DW R23	<p>Restricted Discretionary – Discharge of Stormwater to Land Soakage</p> <p>The discharge of contaminated stormwater to land soakage, where the rate of discharge is greater than 125 litres per second for a 10 minute duration 10% AEP storm event (10 year return period storm) is a restricted discretionary activity subject to the following conditions:</p> <ul style="list-style-type: none"> (a) The discharge shall not contain any hazardous substances. (b) The discharge shall not contain any wastes (including, but not limited to, wastewater or condensates) from a trade or industrial process. (c) The discharge shall not contain any stormwater from a timber preservation site, timber treatment site, or a site where chemically treated timber is stored. (d) The discharge shall not cause or induce land erosion to the bed or banks of any surface water body, or to land, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes: <ul style="list-style-type: none"> (i) Instability of land or the banks of the surface water body. (ii) Scour to the bed of the surface water body. (iii) Damage to the margins or banks of the surface water body. (e) The discharge shall not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person. <p>This activity is also subject to the requirements of the rules in the Rotorua Lakes section of this regional plan. The Regional Council restricts its discretion to the following matters:</p> <ul style="list-style-type: none"> (a) Management and maintenance of the stormwater system to achieve the conditions. (b) Measures to avoid, remedy or mitigate the adverse effects of the stormwater discharge on: <ul style="list-style-type: none"> (i) Erosion or land instability. (ii) Flooding of land owned or occupied by another person. (iii) Indigenous flora and fauna. (iv) Sites of significance to tangata whenua. (c) The administrative charges under section 36 of the Act. (d) Monitoring requirements.
DW R8	<p>Discretionary - Discharges to Water or Land</p> <p>Any:</p> <ol style="list-style-type: none"> 1 Discharge of a contaminant to water. 2 Discharge of water to water. 3 Discharge of a contaminant onto or into land in circumstances which may result in the contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water. 4 Discharge of a contaminant from any industrial or trade premises onto or into land. <p>That is not:</p> <ul style="list-style-type: none"> (a) Permitted by a rule in this regional plan.

- (b) Permitted by a rule in any other Bay of Plenty regional plan.
- (c) Prohibited by a rule in this regional plan.
- (d) Restricted discretionary status by a rule in this regional plan.
- (e) Controlled status by a rule in this regional plan.

Is a discretionary activity.

This activity is also subject to the requirements of the rules in the Rotorua Lakes section of this regional plan. All discharges to surface water that are discretionary under this rule will be assessed against the Water Quality Classification of the receiving water body (refer to Schedule 9 and the Water Classification map). Resource consent applicants who seek to exceed the relevant Water Quality Classification standards must provide evidence in their application to demonstrate how the adverse effects of the proposed activity will be avoided, remedied or mitigated to be consistent with IM O3.

Advisory Note

1 Cleanfill sites that do not discharge leachate or contaminants to land are included in the definition of 'earthworks' and addressed by rules in the Land Management section of this regional plan.

2 If a resource consent applicant is unable to avoid, remedy or mitigate adverse effects on the environment, and does not meet IM O3, the resource application is likely to be publicly notified and/or consent may be declined.

3 The application of fertiliser is permitted under DW R11 subject to compliance with the conditions of the Rule. If the application does not comply with DW R11, a resource consent is required under DW R8. The Regional Council prefer resource users to comply with DW R11 rather than apply for a resource consent.

National Policy Statement for Freshwater Management 2020

August 2020

1.3 Fundamental concept – Te Mana o te Wai

Concept

- (1) Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.
- (2) Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

Framework

- (1) Te Mana o te Wai encompasses 6 principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform this National Policy Statement and its implementation.
- (2) The 6 principles are:
 - (a) Mana whakahaere: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater
 - (b) Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations
 - (c) Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others
 - (d) Governance: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future
 - (e) Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations
 - (f) Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation. 6 National Policy Statement for Freshwater Management 2020
- (d) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

1.7 Application of section 55(2A) of Act

(1) The changes to regional policy statements and regional plans required by the following provisions of this National Policy Statement are amendments referred to in section 55(2) of the Act (which, because of section 55(2A) of the Act, means that the changes must be made without using a process in Schedule 1 of the Act):

- (a) clause 3.22(1) (Natural inland wetlands)
- (b) clause 3.24(1) (Rivers)
- (c) clause 3.26(1) (Fish passage).

(2) See clause 4.3(3) about changes that merely update wording or terminology.

Part 2: Objective and policies

2.1 Objective

(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems
- (b) second, the health needs of people (such as drinking water)
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

2.2 Policies

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

Policy 2: Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

Policy 7: The loss of river extent and values is avoided to the extent practicable.

Policy 8: The significant values of outstanding water bodies are protected.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with

Policy 9. The habitats of indigenous freshwater species are protected

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

Policy 14: Information (including monitoring data) about the state of water bodies and freshwater ecosystems, and the challenges to their health and well-being, is regularly reported on and published.

Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement

3.5 Integrated management

(1) Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires that local authorities must:

- (a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and
- (b) recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and
- (c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and
- (d) encourage the co-ordination and sequencing of regional or urban growth.

(2) Every regional council must make or change its regional policy statement to the extent needed to provide for the integrated management of the effects of:

- (a) the use and development of land on freshwater; and
- (b) the use and development of land and freshwater on receiving environments.

(3) In order to give effect to this National Policy Statement, local authorities that share jurisdiction over a catchment must co-operate in the integrated management of the effects of land use and development on freshwater.

(4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

Resource Management Act 1991

Part 1 Interpretation and application

2 Interpretation

best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

- (a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
- (b) the financial implications, and the effects on the environment, of that option when compared with other options; and
- (c) the current state of technical knowledge and the likelihood that the option can be successfully applied

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights:
- (h) the management of significant risks from natural hazards.

Section 6(f): inserted, on 1 August 2003, by [section 4](#) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 6(g): replaced, on 1 April 2011, by [section 128](#) of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 6(h): inserted, on 19 April 2017, by [section 6](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must—
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
 - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
 - (i) identifying other reasonably practicable options for achieving the objectives; and
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
 - (iii) summarising the reasons for deciding on the provisions; and
 - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
- (2) An assessment under subsection (1)(b)(ii) must—
 - (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
 - (i) economic growth that are anticipated to be provided or reduced; and
 - (ii) employment that are anticipated to be provided or reduced; and
 - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
 - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- (3) If the proposal (an **amending proposal**) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—
 - (a) the provisions and objectives of the amending proposal; and
 - (b) the objectives of the existing proposal to the extent that those objectives—
 - (i) are relevant to the objectives of the amending proposal; and
 - (ii) would remain if the amending proposal were to take effect.
- (4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in [Schedule 1](#), the evaluation report must—
 - (a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of [Schedule 1](#); and
 - (b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.
- (5) The person who must have particular regard to the evaluation report must make the report available for public inspection—
 - (a) as soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or
 - (b) at the same time as the proposal is notified.
- (6) In this section,—

objectives means,—

 - (a) for a proposal that contains or states objectives, those objectives;
 - (b) for all other proposals, the purpose of the proposal

proposal means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act

provisions means,—

- (a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:
- (b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

Section 32: replaced, on 3 December 2013, for all purposes, by [section 70](#) of the Resource Management Amendment Act 2013 (2013 No 63).

Section 32(3): amended, on 19 April 2017, by [section 14\(1\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(4): amended, on 19 April 2017, by [section 14\(2\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(4A): inserted, on 19 April 2017, by [section 14\(3\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(5)(a): amended, on 24 October 2019, by [section 125](#) of the Statutes Amendment Act 2019 (2019 No 56).

Section 32(5)(b): amended, on 19 April 2017, by [section 14\(4\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 32(6) **proposal**: amended, on 19 April 2017, by [section 14\(5\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Bay of Plenty Regional Natural Resources Plan - Freshwater Management update March 2021

Change/Update	Provisions Affected
<p>Amendments required by clauses 3.22(1), 3.24(1) and 3.26(1) of the National Policy Statement for Freshwater Management 2020</p>	<ul style="list-style-type: none"> • BW Chapter - New passage of fish objective BW 03A <u><i>BW 03A The passage of fish is maintained, or is improved, by instream structures, except where it is desirable to prevent the passage of some fish species in order to protect desired fish species, their life stages, or their habitats.</i></u> • IM Chapter - New loss of river extent and values policy IM P1A <u><i>IM P1A The loss of river extent and values is avoided, unless the council is satisfied:</i></u> <ul style="list-style-type: none"> (c) <u><i>that there is a functional need for the activity in that location; and</i></u> (d) <u><i>the effects of the activity are managed by applying the effects management hierarchy.</i></u> <p><u><i>For the purposes of this policy, effects management hierarchy and loss of value have the meaning given by the National Policy Statement for Freshwater Management 2020.</i></u></p> • WL Chapter - New natural inland wetlands policy WL P13 <u><i>WL P13 The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where:</i></u> <ul style="list-style-type: none"> (a) <u><i>the loss of extent or values arises from any of the following:</i></u> <ul style="list-style-type: none"> (i) <u><i>the customary harvest of food or resources undertaken in accordance with tikanga Māori</i></u> (ii) <u><i>restoration activities</i></u> (iii) <u><i>scientific research</i></u> (iv) <u><i>the sustainable harvest of sphagnum moss</i></u> (v) <u><i>the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)</i></u> (vi) <u><i>the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)</i></u> (vii) <u><i>natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020); or</i></u> (b) <u><i>the Regional Council is satisfied that:</i></u> <ul style="list-style-type: none"> (i) <u><i>the activity is necessary for the construction or upgrade of specified infrastructure; and</i></u> (ii) <u><i>the specified infrastructure will provide significant national or regional benefits; and</i></u> (iii) <u><i>there is a functional need for the specified infrastructure in that location; and</i></u> (iv) <u><i>the effects of the activity are managed through applying the effects management hierarchy.</i></u> <p><u><i>For the purposes of this policy, effects management hierarchy, loss of value, natural inland wetland, specified infrastructure and restoration have the same meaning as defined in the National Policy Statement for Freshwater Management 2020.</i></u></p>
<p>Amendment required by National Policy Statement for Freshwater Management 2014 (as amended in 2017)</p>	<ul style="list-style-type: none"> • DW Chapter - DW P6 (Policy 43A) amended by removing the word 'secondary' and updating the note <u><i>DW P6 (Policy 43A) When considering any application for a discharge the consent authority must have regard to the following matters:</i></u> <ul style="list-style-type: none"> (a) <u><i>the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of fresh water including on any ecosystem associated with fresh water; and</i></u> (b) <u><i>the extent to which it is feasible and dependable that any more than minor adverse effect on fresh water, and on any ecosystem associated with fresh water, resulting from the discharge would be avoided; and</i></u>

	<p>(c) <i>the extent to which the discharge would avoid contamination that will have an adverse effect on the health of people and communities as affected by their contact with fresh water; and</i></p> <p>(d) <i>the extent to which it is feasible and dependable that any more than minor adverse effect on the health of people and communities as affected by their contact with fresh water resulting from the discharge would be avoided.</i></p> <p><i>This policy applies to the following discharges (including a diffuse discharge by any person or animal):</i></p> <p>(a) <i>a new discharge; or</i></p> <p>(b) <i>a change or increase in any discharge –</i> <i>of any contaminant into fresh water, or onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering fresh water.</i></p> <p><i>Paragraph 1 parts a. and b. of this policy do not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management takes effect on 1 July 2011.</i></p> <p><i>Paragraph 1 parts c. and d. of this policy do not apply to any application for consent first lodged before the National Policy Statement for Freshwater Management 2014 takes effect on 1 August 2014.</i></p> <p>Note: <i>This policy was inserted to meet the requirements of the National Policy Statement for Freshwater Management 2011.</i></p> <p>Note: <i>This policy was amended to meet the requirements of the National Policy Statement for Freshwater Management 2014 and National Policy Statement for Freshwater Management 2014 (amended in 2017).</i></p>
Amendment required by the National Planning Standards 2019	<ul style="list-style-type: none"> • Definition of Terms - new term 'functional need' inserted <i>Functional need</i> - <i>means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.</i>
Consequential amendments	<ul style="list-style-type: none"> • Conversion Index for Provisions updated