

RESOURCE MANAGEMENT ACT 1991

PROPOSED HOROWHENUA DISTRICT PLAN

HEARINGS OF SUBMISSIONS

DECISION OF HEARING PANEL

TOPIC: Report on District Plan
General Part 1 - Incorporating Part A Introduction &
Chapter 14 Cross Boundary Issues

HEARING PANEL: Dean Chrystal (Chair)
Cr Garry Good
Cr Tony Rush

HEARING DATE: 4th April 2013

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1.0 INTRODUCTION

- 1.1 We were appointed by the Horowhenua District Council to consider submissions on the Proposed District Plan relating to the General Section and Chapter 14.
- 1.2 A hearing into the submissions received on the Introduction and Cross Boundary Issues (Chapter 14) was held on the 4th April 2013. The hearing was closed on the 13 September 2013.

Abbreviations

- 1.3 In preparing this decision we have used the following abbreviations:

Proposed Plan	Proposed Horowhenua District Plan
Officer's report	Report evaluating the applications prepared by Mr Hamish Wesney for our assistance under s42A(1) of the RMA
The Act	Resource Management Act
HAL	High Amenity Landscapes
ONFL	Outstanding Natural Features and Landscapes

2.0 OFFICER'S REPORT

- 2.1 We were provided with and had reviewed the Officer report prepared by consultant planner Hamish Wesney pursuant to s42A of the Act prior to the hearing commencing.
- 2.2 In his report Mr Wesney informed us that Part A – Introduction of the Proposed Plan contained general information on “What is a District Plan”, “How the Plan Works” and overall statutory context. He said that this section of the Proposed Plan was an updated and shortened version of a similar section in the Operative Plan. He went on to say that Chapter 14 of the Proposed Plan addressed ‘Cross Boundary Issues’ and was effectively an updated and revised version of Section 13 in the Operative Plan following a review of these provisions.
- 2.3 Mr Wesney said that a number of submissions were made in relation to Part A – Introduction, some supporting the contents as proposed whilst others sought amendments and additional text. The submissions on Chapter 14 supported the Proposed Plan provisions.
- 2.4 Mr Wesney summarised the key issues raised by submissions and provided a discussion on them. His main recommendations on the key issues raised in submissions had been:
- Retain unchanged the majority of the provisions in Chapters 1 and 14 which were supported by submitters
 - Amend a sentence in Chapter 1: Introduction to recognise social, cultural and economic effects
 - Retain unchanged the section on Maori Values and Statutory Acknowledgements
 - Amend text on ‘How the District Plan Works’

3.0 SUBMITTER APPEARANCES

- 3.1 The following submitter made an appearance at the hearing:
- Charles Rudd (Snr)
- 3.2 In addition, a written submission for presentation at the hearing was received from:
- Consultant Planner Lorelle Barry on behalf of Todd Energy and KCE Mangahao Ltd

4.0 EVALUATION

Part A – Introduction: The Horowhenua District Plan

Submissions Received

Sub No.	Submitter Name	Decision Requested	Further Submissions
32.00	NZ Pork Industry Board (NZ Pork)	Amend Introduction Chapter as follows: The Horowhenua District Plan is intended to assist the Council manage the environmental <u>social, cultural and economic</u> effects, of the use, development, and protection of land (and associated resources), including the control of the subdivision of land.	517.01 Horticulture NZ - Support 524.00 Higgins Group Holdings Ltd - Support

- 4.1 The above submissions were evaluated and supported by the reporting officer in section 4.1.2 of the officer's report. No submitters expressed any opposition to that evaluation. We have reviewed the officer's evaluation and we agree with it and adopt it as our reasons pursuant to Clause 10(2)(a) of Schedule 1 to the RMA. The officer supported the recommended amendment to the first sentence of the Sub-section "The Horowhenua District Plan", of the Proposed Plan. We have reviewed that recommended amendment and consider it to be appropriate. We therefore adopt the recommendation as our decision pursuant to Clause 10(1) of Schedule 1 to the RMA. The amendment is shown in Appendix A.

Part A – Introduction: The Philosophy of the Horowhenua District Plan

Submissions Received

Sub No.	Submitter Name	Decision Requested	Further Submission
32.01	NZ Pork Industry Board (NZ Pork)	Insert a paragraph outlining the importance of encouraging sustainable development and commercial activities which includes primary production into the district including economic and cultural effects	506.61 Ernslaw One Ltd - Support

- 4.2 The Reporting Officer did not consider the relief sought by the submitter was appropriate as the introductory section did not contain the objective or policy direction that the submitter was seeking. He said that the purpose of this section of the Proposed Plan was to provide a brief outline and overview of the purpose, role and fit of the District Plan in the Horowhenua context and to give the reader a brief understanding of the general direction and approach of the District Plan, but not the outcomes sought.
- 4.3 We agree with the Reporting Officers comments, noting his reference to Chapter 2: Rural Environment and Chapter 6: Urban Environment which in part recognise and provide for the relief sought by the submitter and his comment that the wording proposed did not align with the purpose of the Act in promoting sustainable 'management'.
- 4.4 On this basis we have rejected the submission and further submission above.

Part A – Introduction: Maori Values and Statutory Acknowledgement

Submissions Received

Sub No.	Submitter Name	Decision Requested
109.00	Charles Rudd (Snr)	No specific relief requested: Inferred: Amend A Introduction as follows: ● Muaupoko

Sub No.	Submitter Name	Decision Requested
		<ul style="list-style-type: none"> • Ngati Apa • Ngati Raukawa • Rangitane • <u>Muaupoko, Rangitane, Ngati Apa, Ngati Raukawa ki te Tonga.</u>
109.01	Charles Rudd (Snr)	<p>Include the following statement: The treaty settlement is an agreement between the Crown and Maori, which states 'Her Majesty the Queen of England confirms and guarantees to the Chiefs and <u>Tribes of New Zealand and to their respective families and individuals</u> thereof, the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries, and other properties which they may collectively possess, so long as it is their wish and desire to maintain the same in their possession. <u>Status of Maori Land in New Zealand:</u> <u>1. Maori Customary Land</u> <u>2. Maori Freehold Land</u> <u>3. General Land Owned by Maori</u> <u>4. General Land</u> <u>5. Crown Land</u> <u>6. Crown Land Reserved for Maori</u></p>

- 4.5 The submitter essentially requested that the order the Iwi were listed be amended and that changes be made to the Statutory Acknowledgements sub-section on the application of the Treaty of Waitangi and outline of different types of status of Maori land.
- 4.6 In the s42A report the Reporting Officer noted that the current order of listing Iwi was in alphabetical order which he considered was appropriate. He also said the sub-section on 'Statutory Acknowledgements' referred to the Treaty of Waitangi in the context of treaty settlements between Iwi and the Crown and considered it complete in terms of its references to the Treaty of Waitangi in this context, as they relate to treaty settlements, and not the Treaty itself. Finally he said that in terms of the different status of Maori land, the Proposed Plan did not apply different provisions (e.g. rules and standards) for any land with different legal status. Therefore, he did not consider it appropriate or necessary to include a list of different types of land status. He had recommended that both submission points be rejected.
- 4.7 At the hearing Mr Rudd (snr) outlined his whakapapa indicating that he was a direct descendent of the last paramount chief of the Muaupoko tribe and a Kaumatua of that tribe. He made reference to a lack of understanding of things Maori in describing why he considered his submissions had been rejected.
- 4.8 In terms of the listing of tribal groups in Part A: Introduction under the heading Maori Values, Mr Rudd contended the order should be based on who occupied the land first (as shown above in his submission) rather than the current alphabetical order. In response to a question Mr Rudd admitted that not all iwi/tribes might agree with this approach or his proposed order.
- 4.9 Mr Rudd further considered that the word Iwi should not be used in the Proposed Plan and that it should instead be replaced with the word Maori and finally that the Proposed Plan should not be referring to treaty settlements. He said that if references were to be included, they need to correctly state that settlements do not relate to "iwi" but "tribes of New Zealand and to their respective families and individuals".
- 4.10 In response to the matters raised by Mr Rudd the Reporting officer in supplementary comments (attached in Appendix C) did not consider the alphabetical order of tribes listed should be changes, particularly given the potential for different views on "who came first". However, he considered "*to clarify the basis of the order and avoid mis-understandings or perceptions of the listed order, it is recommended an amendment is made to this part of the Plan to confirm the listed order is alphabetical*"¹. He therefore now recommended Mr Rudd's submission point 109.00 be accepted in part with a reference made to the fact that the list is in alphabetical order.

¹ Reporting officer supplementary comments contained in Appendix C

- 4.11 The Reporting officer investigated the use of the word “Maori” instead of “Iwi” in the Maori Values section. In his response, contained in Appendix C, he referred to the Online Maori Dictionary, which defines ‘iwi’ as “extended kinship group, tribe, nation, people, nationality, race - often refers to a large group of people descended from a common ancestor”. ‘Maori’ is defined as “Māori, indigenous New Zealander, indigenous person of Aotearoa/New Zealand”. He went on to say that he understood *“the use of the term ‘iwi’ in the Proposed Plan was discussed with the Iwi Advisory Group formed to inform the preparation of the Proposed Plan. ‘Iwi’ was considered the appropriate term to use in relation to the different tribal groups in the Horowhenua²”*. The Reporting officer considered the use of the term ‘iwi’ was appropriate when referring to tribal groups and that replacing it with ‘Maori’ was inappropriate, as it could refer to an individual person, causing confusion. He therefore recommended the use of the term ‘iwi’ be retained in this section.
- 4.12 The Reporting officer also considered the use of the word “Maori” instead of “Iwi” in the Statutory Acknowledgement section and whether the Proposed Plan should or should not include references to Treaty of Waitangi settlements. He initially made reference to the Ministry for the Environment website which states that:
- “Historical land claim settlements generally include a range of redress mechanisms relating to resource management including Statutory Acknowledgements.*
- Statutory Acknowledgements record the traditional significance to claimants of sites that are in Crown ownership. They require that the claimant group must be informed whenever a local authority receives a resource consent application affecting a site that is subject to a Statutory Acknowledgement; and that a local authority must have regard to the Statutory Acknowledgement when deciding whether the claimant group is “adversely affected” by an activity for which a resource consent is sought. When dealing with a resource consent application, the Environment Court must also have regard to any relevant statutory acknowledgements in determining whether the claimant group has an interest in the proceedings greater than that of the general public.”*
- 4.13 The Reporting officer noted that there was one settlement in the Horowhenua District which includes a Statutory Acknowledgement – Ngati Apa (North Island) Claims Settlement Act 2010. He considered that given the above requirements under the Act where a statutory acknowledgement applies, it was appropriate that the Proposed Plan refers to statutory acknowledgements in Treaty of Waitangi settlements. He therefore recommended this part of the Part A – Introduction in the Proposed Plan be retained.
- 4.14 In relation to who is the party in a Treaty of Waitangi settlement, the Reporting officer noted that the Office of Treaty Settlements website states:
- “A Treaty settlement is an agreement between the Crown and a Maori claimant group to settle all of that claimant group's historical claims against the Crown.*
- 4.15 The Reporting officer noted that claimant groups are usually iwi or large hapu (tribes and sub-tribes) that have a longstanding historical and cultural association with a particular area. In this circumstance he considered *“it is appropriate to replace the references to iwi’ in the Proposed Plan in the context of Treaty of Waitangi settlements with “Maori claimant group’. This wording would more accurately describe the nature of settlement parties”³*. He now recommended that alterations be made to the Statutory Acknowledgements section and that submission point 109.01 be accepted in part.
- 4.16 We considered all these matters carefully in the understanding that there may well be some sensitivity around the issues involved.
- 4.17 In terms of the order the tribes are listed in we consider that the present alphabetical order is the most appropriate. The context within which the list sits is merely to identify the tribes claiming mana whenua within the Horowhenua District. There is no hierarchy or order of preference intended to be created here. A reordering basis on who supposedly occupied the area first is fraught with difficulties should that order not

² Reporting officer supplementary comments contained in Appendix C

³ Reporting officer supplementary comments contained in Appendix C

be accepted by, or is disputed by, others and Mr Rudd himself admitted that that might be a possibility. We agreed with the additional wording proposed by the Reporting Officer and shown in Appendix A which clarifies that the order is alphabetical.

- 4.18 Turning to the issue of the use of the word “Maori” instead of “Iwi” we have reviewed the additional evaluation (contained in Appendix C) undertaken by the reporting officer and considered the conclusions reached and the changes proposed. We agree with that evaluation overall and the revised wording recommended to the Statutory Acknowledgement section which replaces “Iwi” with “Maori claimant group” and adopt it as our reasons pursuant to Clause 10(2)(a) of Schedule 1 to the RMA. We considered this change would go some way towards addressing the concerns expressed by Mr Rudd. The wording changes are shown in Appendix A under the Statutory Acknowledgement section heading.

Part A – Introduction: Hierarchy and Relationship of Resource Management Policy and Plans

Submissions Received

Sub No.	Submitter Name	Decision Requested
99.00	Transpower New Zealand Ltd	Amend Part A, Introduction, Hierarchy and Relationship and Resource Management and Policy and Plans, National Environmental Standards section (page A-6) as follows: The District Plan does not contain any rules that could duplicate <u>or conflict with</u> the regulations in the above NESs. Cross references to the relevant NES regulations are included in the relevant rule Chapters (e.g. Chapter 22 -Utilities and Energy).

- 4.19 The above submission was evaluated by the reporting officer in section 4.4.2 of the Officer’s report. No submitters expressed any opposition to that evaluation. We have reviewed the officer’s evaluation and we agree with it and adopt it as our reasons pursuant to Clause 10(2)(a) of Schedule 1 to the RMA. The officer also supported the recommended amendment to the last paragraph under the sub-section Hierarchy and Relationship and Resource Management and Policy and Plans, National Environmental Standards of the Proposed Plan. We have reviewed that recommended amendment and consider it to be appropriate. We therefore adopt that recommendation as our decisions pursuant to Clause 10(1) of Schedule 1 to the RMA. The amendment is shown in Appendix A.

Part A – Introduction: How This Plan Works

Submissions Received

Sub No.	Submitter Name	Decision Requested	Further Submission
80.00	Todd Energy Ltd	Amend Part A: Introduction, Part F Schedules and Planning Maps with the following: <ul style="list-style-type: none"> Add a description of the purpose of Schedule 12; and Add a discussion of the HAL (and the ONFL) and the implications. 	503.03 NZWEA - Support
92.00	KCE Mangahao Ltd	Amend Part A: Introduction, Part F Schedules and Planning Maps with the following: <ul style="list-style-type: none"> Add a description of the purpose of Schedule 12; and Add a discussion of the HAL (and the ONFL) and the implications. 	503.04 NZWEA - Support
44.00	Genesis Power Ltd	Amend the following paragraph after the third paragraph In-Part A Introduction (Part B – Objectives and Policies) as follows: <u>While the objectives and policies form a comprehensive suite of outcomes for the region, the</u>	503.05 NZWEA - Support 505.00 Powerco - Support 517.00 Horticulture NZ - Support

Sub No.	Submitter Name	Decision Requested	Further Submission
		<u>individual provisions can conflict with one another. For this reason, no single objective or policy should be read in isolation. Assessing whether an activity is appropriate requires an overall broad judgement to be made as to how it fits within the overall scheme of the District Plan and provides for the achievement of the environmental outcomes sought for the Horowhenua District.</u>	

- 4.20 The submissions on How This Plan Works sought further cross-referencing and/or details on assessing resource consent applications. The Reporting Officer noted that the purpose of Part A – Introduction in the Proposed Plan was to provide a simple and user-friendly explanation to the District Plan and how it works for a ‘lay person’ and therefore, the content had been intentionally kept short and simple.
- 4.21 The Reporting officer supported in part the submissions by Todd Energy Ltd and KCE Mangahao Ltd as the scheduling of priority water bodies and mapping of HAL and ONFLs were parts of the District Plan, and therefore should be referred to in Part A – Introduction. He had initially recommended the following amendment be made to sub-section ‘How This Plan Works’, ‘Part F – Schedules’ fourth paragraph:
- The Notable Tree Schedule, ~~and~~ Historic Heritage Schedule, State Integrated Schools Schedule and Priority Water Bodies Schedule provide detail on the individually listed items and places.
- 4.22 In is subsequent response (Appendix C) the Reporting officer noted that not referencing the Planning Maps and Outstanding Natural Features and Landscapes had been an oversight and he therefore also recommended the third bullet point under the sub-section ‘How This Plan Works, Planning Maps’ be amended to read:
- Rural Zone – Landscape Domain Overlays, Flood Hazard Overlay, Outstanding Natural Features and Landscapes Overlays
- 4.23 The Reporting officer however considered that to outline the purpose for their inclusion and any implications was beyond the scope and purpose of Part A – Introduction. He said that the basis for the inclusion of these Plan provisions was more appropriately outlined in the respective Proposed Plan Chapters (e.g. Section 3: Natural Features and Values and Chapter 4: Open Space and Access to Waterbodies). He recommended the sub-section on ‘Part F – Schedules’ be amended to refer to all schedules as outlined below, including reference to priority waterbodies and that no changes be made in relation to ONFLs as the existing references in the 2nd and 3rd paragraphs in the sub-section on ‘Planning Maps’ was considered sufficient for the purpose of a simple and concise Part A – Introduction.
- 4.24 A written response was received from Ms Barry of Sigma Consultants Ltd on behalf of Todd Energy Ltd and KCE Mangahao Ltd. In that response Ms Barry confirmed that the submitters supported the amendment proposed by the Reporting officer to the sub-section “How This Plan Works” and the recommendation to not include a description of the purpose of Schedule 12 and a discussion of the HAL and ONFL subject to this being implemented in the appropriate chapters as outlined.
- 4.25 The Panel agreed with the wording proposed above by the Reporting officer. We noted that *State Integrated Schools Schedule* had been included in the wording which wasn’t specifically sought by the submitters however we consider that this is appropriate as a consequential amendment for reasons of consistency so that all schedules are then referenced.
- 4.26 Genesis Power Ltd requested the addition of text to the sub-section of ‘How This Plan Works’ in relation to Objectives and Policies and how they would be applied when assessing a resource consent application. The Reporting Officer considered that additional text sought to be overly complicated for the intent and purpose of a simple and short Part A – Introduction for a ‘lay-person’.

- 4.27 The Panel agreed that the existing text briefly explaining the role and purpose of objectives and policies was perfectly adequate to achieve the purpose of informing those reading the Proposed Plan of their intent. The Panel accordingly rejected the Genesis submission together with the three further submissions in support.

Chapter 14: Cross Boundary Issues

Submissions Received

Sub No.	Submitter Name	Provision	Decision Requested
41.13	Powerco	14.1.1 Objective	Retain Objective 14.1.1 without modification.
41.14	Powerco	14.1.2 Policy	Retain Policy 14.1.2 without modification.
47.00	Palmerston North City Council (PNCC)	14 General Matters	Retain the planning approach and process for managing cross boundary issues in relation to wind farm applications.
100.12	New Zealand Wind Energy Association (NZWEA)	14 General Matters	Retain Chapter 14 as proposed.
101.66	Director-General of Conservation (DoC)	14 General Matters	Retain as notified.

- 4.28 The support for Chapter 14 from the above submitters is noted and accepted and the provisions approved. No amendments are recommended to Chapter 14: Cross Boundary Issues.

5.0 DECISION

- 5.1 For all of the foregoing reasons we resolve the following:

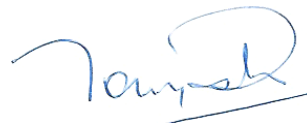
1. That pursuant to clause 10 of Schedule 1 to the Resource Management Act 1991 the Part A Introduction section and Chapter 14 Cross Boundary Issues section of the Proposed Horowhenua District Plan be approved including the amendments set out in Appendix A to this decision.
2. That for the reasons set out in the above report submissions and further submissions are accepted, accepted in part or rejected as listed in Appendix B to this decision.



Dean Chrystal



Cr Garry Good



Cr Tony Rush

Dated: 23 September 2013

APPENDIX A: Proposed Plan as amended by the Hearing Decisions

PART A INTRODUCTION

Text to be added to the Proposed Plan is shown as underlined and any text to be deleted is shown as ~~strikethrough~~.

1. Amend Sub-section “The Horowhenua District Plan”, first sentence to read as follows:

The Horowhenua District Plan is intended to assist the Council manage the environmental, social, cultural and economic effects, of the use, development, and protection of land (and associated resources), including the control of the subdivision of land.

2. Amend the paragraph below the heading “Maori Values” to read as follows:

The RMA recognises the importance of ensuring the incorporation of Maori values in resource management decision making. The following Iwi and their hapu exercise mana whenua within the boundaries of the Horowhenua District (listed in alphabetical order):

- Muaūpoko
- Ngāti Apa
- Ngāti Raukawa
- Rangitāne

3. Amend the section under the heading “Statutory Acknowledgements” to read as follows:

A treaty settlement is an agreement between the Crown and ~~an Iwi~~ a Maori claimant group to give effect to a deed of settlement for all of the ~~Iwi's group's~~ historical claims against the Crown over land or other resources taken in breach of the Treaty of Waitangi.

A statutory acknowledgement is a formal recognition by the Crown of the particular cultural, spiritual, historic, and traditional associations that ~~an Iwi~~ a Maori claimant group has with a statutory area. A statutory area can include an area of land, a landscape feature, a lake, a river or wetland, or a specified part of the coastal marine area. The association of ~~an Iwi~~ a Maori claimant group with a statutory area is outlined in the schedules to a Claims Settlement Act.

The purposes of statutory acknowledgements are:

- to require consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgements;
- to require relevant consent authorities to forward summaries of resource consent applications for activities within, adjacent to, or impacting directly on relevant statutory areas to the governance entity;
- to enable the governance entity and any member of the ~~Iwi~~ Maori claimant group to cite the statutory acknowledgements as evidence of the association of the ~~Iwi~~ Maori claimant group with the relevant statutory areas; and
- to provide a statement by the ~~Iwi~~, Maori claimant group for inclusion in a deed of recognition, of the association of the ~~Iwi~~ Maori claimant group with a relevant statutory area.

From the effective date, consent authorities must have regard to a statutory acknowledgement relating to a statutory area in forming an opinion in accordance with sections 95 to 95G of the RMA as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on, a statutory area.

Local authorities with jurisdiction in an area that includes a statutory area must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover the statutory area. The attachment of information is for the purpose of public information only, and the information is not part of the statutory plan or subject to the provisions of the First Schedule of the RMA. Accordingly, statutory acknowledgements within the District are included in an Appendix to the District Plan (Schedule 11).

A relevant consent authority must forward to the governance entity a summary of resource consent applications received by that consent authority for activities within, adjacent to, or impacting directly on, a statutory area. The information provided must be the same as would be given under section 95E of the RMA to persons likely to be affected, or as may be agreed between the governance entity and the relevant consent authority. It must be provided as soon as reasonably practicable after the application is received, and before a determination is made in accordance with sections 95 to 95G of the RMA. The governance entity may, by notice in writing to a relevant consent authority, waive its rights to be notified and state the scope of that waiver. A statutory acknowledgement does not affect the obligation of a consent authority to notify an application in accordance with sections 95 and 95G of the RMA and to form an opinion as to whether the governance entity is a person that is likely to be adversely affected under those sections.

The governance entity and a member of the ~~twi~~ Maori claimant group may, as evidence of the association of the ~~twi~~ Maori claimant group with a statutory area, cite the relevant statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or impacting directly on, the statutory area. The non-existence of a statutory acknowledgement does not mean that other areas are unimportant to the governance entity or the ~~twi~~ Maori claimant group.

4. Amend Part A - Introduction, Hierarchy and Relationship and Resource Management and Policy and Plans, National Environmental Standards section (page A-6) as follows:

The District Plan does not contain any rules that could duplicate or conflict with the regulations in the above NESs. Cross references to the relevant NES regulations are included in the relevant rule Chapters (e.g. Chapter 22 - Utilities and Energy).

5. Amend sub-section 'How This Plan Works', 'Part F – Schedules' fourth paragraph to read as follows:

The Notable Tree Schedule, ~~and~~ Historic Heritage Schedule, State Integrated Schools Schedule and Priority Water Bodies Schedule provide detail on the individually listed items and places.

6. Amend sub-section 'How This Plan Works', 'Planning Maps' to read as follows:

Rural Zone – Landscape Domain Overlays, Flood Hazard Overlay, Outstanding Natural Features and Landscapes Overlays

APPENDIX B: Schedule of Decisions on Submission Points

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Hearing Panel Decision
32.00		NZ Pork Industry Board		Accept
	517.01	Horticulture NZ	Support	Accept
	524.00	Higgins Group Holdings Ltd	Support	Accept
32.01		NZ Pork Industry Board		Reject
	506.61	Ernslaw One Ltd	Support	Reject
109.00		Charles Rudd (Snr)		Accept In-Part
109.01		Charles Rudd (Snr)		Accept In-Part
99.00		Transpower New Zealand Ltd		Accept
80.00		Todd Energy Ltd		Accept In-Part
	503.03	NZWEA	Support	Accept In-Part
92.00		KCE Mangahao Ltd		Accept In-Part
	503.04	NZWEA	Support	Accept In-Part
44.00		Genesis Power Ltd		Reject
	503.05	NZWEA	Support	Reject
	505.00	Powerco	Support	Reject
	517.00	Horticulture NZ	Support	Reject
41.13		Powerco		Accept
41.14		Powerco		Accept
47.00		PNCC		Accept
100.12		NZWEA		Accept
101.66		DoC		Accept

Proposed Horowhenua District Plan

General Part 1 (incorporating Part A – Introduction and Chapter 14 Cross Boundary Issues)

Hearing: 4 April 2013

Officer Right of Reply and Response to Commissioners Questions

Maori Values and Statutory Acknowledgements

Q. Mr Rudd explained the reasons for re-ordering the list of iwi/tribe under the heading 'Maori Values'. Do you have any further comment in relation to the order?

A. Mr Rudd contended the order should be based on “who came first”, and in his contention, the genealogical order is “Muaupoko > Rangitane > Ngati Apa > Ngati Raukawa kit e Tonga. In response to the question from Commissioners, I note Mr Rudd acknowledged members of the other iwi/tribe may dispute this order on “who came first”. Furthermore, Mr Rudd acknowledged there is no hierarchy between iwi/tribes. Given the above, particularly the potential for different views on “who came first”, I consider alphabetical order is still the most appropriate order for listing the iwi/tribes. To clarify the basis of the order and avoid mis-understandings or perceptions of the listed order, it is recommended an amendment is made to this part of the Plan to confirm the listed order is alphabetical. Therefore, I now recommend Mr Rudd’s submission point 109.00 be accepted in part.

Recommended Amendment:

Amend the paragraph below the heading “Maori Values” to read as follows:

The RMA recognises the importance of ensuring the incorporation of Maori values in resource management decision making. The following Iwi and their hapu exercise mana whenua within the boundaries of the Horowhenua District (listed in alphabetical order):

- *Muaūpoko*
- *Ngāti Apa*
- *Ngāti Raukawa*
- *Rangitāne*

Q. Mr Rudd made multiple references to the use of the term “iwi” in the Proposed Plan. He contended the more appropriate term was “Maori” and/or “tribes and their respective families and individuals”. Do you have any comments on the use of the term “iwi” and whether it is appropriate or not in the Proposed Plan?

A. According to the Online Maori Dictionary⁴, ‘iwi’ is defined as “extended kinship group, tribe, nation, people, nationality, race - often refers to a large group of people descended from a common ancestor”. ‘Maori’ is defined as “Māori, indigenous New Zealander, indigenous person of Aotearoa/New Zealand”.

⁴ www.maoridictionary.co.nz

I understand the use of the term 'iwi' in the Proposed Plan was discussed with the Iwi Advisory Group formed to inform the preparation of the Proposed Plan. 'Iwi' was considered the appropriate term to use in relation to the different tribal groups in the Horowhenua. The use of the term 'iwi' in the Proposed Plan is considered appropriate when referring to tribal groups. Replacing the term 'iwi' with 'Maori' is not considered appropriate, as it could refer to an individual person, when could cause confusion. Therefore, it is recommended the use of the term 'iwi' is retained and submission point 109.01 is rejected.

Q. Mr Rudd contended the District Plan should not include any reference to Treaty of Waitangi settlements as they were not relevant. If references are to be included, Mr Rudd contended they need to correctly state that settlements do not relate to "iwi" but "tribes of New Zealand and to their respective families and individuals". Related to the previous question, do you have any comments on of the use of the term "iwi" in this context in the Proposed Plan, and whether the Proposed Plan should or should not include references to Treaty of Waitangi settlements?

A. The Ministry for the Environment website⁵ states:

"Historical land claim settlements generally include a range of redress mechanisms relating to resource management including Statutory Acknowledgements.

Statutory Acknowledgements record the traditional significance to claimants of sites that are in Crown ownership. They require that the claimant group must be informed whenever a local authority receives a resource consent application affecting a site that is subject to a Statutory Acknowledgement; and that a local authority must have regard to the Statutory Acknowledgement when deciding whether the claimant group is "adversely affected" by an activity for which a resource consent is sought. When dealing with a resource consent application, the Environment Court must also have regard to any relevant statutory acknowledgements in determining whether the claimant group has an interest in the proceedings greater than that of the general public."

There is one settlement in the Horowhenua District which includes a Statutory Acknowledgement – Ngati Apa (North Island) Claims Settlement Act 2010. Given the above requirements under the Resource Management Act where a statutory acknowledgement applies, it is considered it appropriate that the Proposed Plan refers to statutory acknowledgements in Treaty of Waitangi settlements. Therefore, it is recommended this part of the Part A – Introduction in the Proposed Plan be retained.

In relation to who is the party in a Treaty of Waitangi settlement, the Office of Treaty Settlements website⁶ states:

"A Treaty settlement is an agreement between the Crown and a Maori claimant group to settle all of that claimant group's historical claims against the Crown.

Claimant groups are usually iwi or large hapu (tribes and sub-tribes) that have a longstanding historical and cultural association with a particular area. Some very specific claims may result in agreements with smaller groups."

Given the above, I consider it is appropriate to replace the references to iwi' in the Proposed Plan in the context of Treaty of Waitangi settlements with "Maori claimant group'. This wording would more accurately describe the nature of settlement parties.

Therefore, I now recommend Mr Rudd's submission point 109.01 be accepted in part.

⁵ www.mfe.govt.nz/issues/treaty/settlements.html

⁶ www.ots.govt.nz

Recommended Amendment:

Amend the section under the heading “Statutory Acknowledgements” to read as follows:

Statutory Acknowledgements

A treaty settlement is an agreement between the Crown and ~~an~~ the Maori claimant group to give effect to a deed of settlement for all of the ~~the~~ group's historical claims against the Crown over land or other resources taken in breach of the Treaty of Waitangi.

A statutory acknowledgement is a formal recognition by the Crown of the particular cultural, spiritual, historic, and traditional associations that ~~an~~ the Maori claimant group has with a statutory area. A statutory area can include an area of land, a landscape feature, a lake, a river or wetland, or a specified part of the coastal marine area. The association of ~~an~~ the Maori claimant group with a statutory area is outlined in the schedules to a Claims Settlement Act.

The purposes of statutory acknowledgements are:

- to require consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgements;*
- to require relevant consent authorities to forward summaries of resource consent applications for activities within, adjacent to, or impacting directly on relevant statutory areas to the governance entity;*
- to enable the governance entity and any member of the the Maori claimant group to cite the statutory acknowledgements as evidence of the association of the the Maori claimant group with the relevant statutory areas; and*
- to provide a statement by the the Maori claimant group, for inclusion in a deed of recognition, of the association of the the Maori claimant group with a relevant statutory area.*

From the effective date, consent authorities must have regard to a statutory acknowledgement relating to a statutory area in forming an opinion in accordance with sections 95 to 95G of the RMA as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on, a statutory area.

Local authorities with jurisdiction in an area that includes a statutory area must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover the statutory area. The attachment of information is for the purpose of public information only, and the information is not part of the statutory plan or subject to the provisions of the First Schedule of the RMA. Accordingly, statutory acknowledgements within the District are included in an Appendix to the District Plan (Schedule 11).

A relevant consent authority must forward to the governance entity a summary of resource consent applications received by that consent authority for activities within, adjacent to, or impacting directly on, a statutory area. The information provided must be the same as would be given under section 95E of the RMA to persons likely to be affected, or as may be agreed between the governance entity and the relevant consent authority. It must be provided as soon as reasonably practicable after the application is received, and before a determination is made in accordance with sections 95 to 95G of the RMA. The governance entity may, by notice in writing to a relevant consent authority, waive its rights to be notified and state the scope of that waiver. A statutory acknowledgement does not affect the obligation of a consent authority to notify an application in accordance with sections 95 and 95G of the RMA and to form an opinion as to whether the governance entity is a person that is likely to be adversely affected under those sections.

The governance entity and a member of the the Maori claimant group may, as evidence of the association of the the Maori claimant group with a statutory area, cite the relevant statutory acknowledgement in submissions to, and in proceedings before, a consent authority, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or

impacting directly on, the statutory area. The non-existence of a statutory acknowledgement does not mean that other areas are unimportant to the governance entity or the ~~the~~ Maori claimant group.

Part A – Introduction: How This Plan Works

Q. Todd Energy/KCE Mangahao seek amendments to “Part F Schedules” by adding reference to Priority Waterbodies and “Planning Maps” by adding reference to High Amenity Landscapes and Outstanding Natural Features and Landscapes. In the Section 42A Report, the recommended amendments added reference to Part F Schedules on Priority Waterbodies but there is no recommended amendment to the Planning Maps and Outstanding Natural Features and Landscapes. Can you clarify whether adding reference to Outstanding Natural Features and Landscapes was an intentional or inadvertent omission?

A. Not referencing the Planning Maps and Outstanding Natural Features and Landscapes was an oversight in the Section 42A Report. For the reasons outlined in the Section 42A Report, it is recommended that reference be added to Outstanding Natural Features and Landscapes.

Recommended Amendment:

Amend sub-section ‘How This Plan Works’, ‘Part F – Schedules’ fourth paragraph to read as follows:

The Notable Tree Schedule, and Historic Heritage Schedule, State Integrated Schools Schedule and Priority Water Bodies Schedule provide detail on the individually listed items and places.

Amend sub-section ‘How This Plan Works’, ‘Planning Maps’ third bullet point on Rural Zone to read as follows:

- *Rural Zone – Landscape Domain Overlays, Flood Hazard Overlay, Outstanding Natural Features and Landscapes Overlays.*

Response prepared by Hamish Wesney

Reviewed by David McCorkindale

Dated 23rd April 2013