

Document: 483028

16 July 2008

**Chairperson and Members  
Policy and Planning Committee**

**Notice of Meeting**

Notice is hereby given that a meeting of the **Policy and Planning Committee** will be held in the Taranaki Regional Council Chambers, 47 Cloten Road, Stratford on:

**Thursday 24 July 2008 commencing at 10.30am.**

B G Chamberlain  
Chief Executive

**THE TARANAKI REGIONAL COUNCIL REQUESTS THAT THIS  
AGENDA REMAINS EMBARGOED UNTIL COMMENCEMENT OF THE  
MEETING**

**Agenda for the meeting of the Policy and Planning Committee of the Taranaki Regional Council to be held in the Taranaki Regional Council Chambers, 47 Cloten Road, Stratford on Thursday 24 July 2008 commencing at 10.30am.**



<b>Councillors</b>		N W Walker M J Cloke P D Horton M A Irving M P Joyce	(Chairperson)
		D N MacLeod	(ex officio)
<b>Representatives</b>	Councillor	A Hickey	(South Taranaki District Council)
	Councillor	M Betts	(New Plymouth District Council)
	Mr	G Hight	(Federated Farmers of New Zealand)
<b>In attendance</b>	Messrs	B G Chamberlain R A Phillips A D McLay G K Bedford M J Nield G C Severinsen P Ledingham	(Chief Executive) (Director-Operations) (Director-Resource Management) (Director-Environment Quality) (Director-Corporate Services) (Policy Manager) (Information Officer)
	Mrs	K van Gameren	(Committee Administrator)
	Mr	J Clough	(Wrightson Consulting)
	Dr	Ants Roberts	(Ravensdown Fertiliser Company)
<b>Apologies</b>	Councillor	M G Davey	
	Councillor	D L Lean	
	Councillor	J Rowe	(Stratford District Council)

**Notification of Late Items**

		<b>Pages</b>
<b><u>Item 1</u></b>	<b>Confirmed Minutes: Policy and Planning Committee— 12 June 2008</b>	1 – 8
<b><u>Item 2</u></b>	<b>Community investment in environmental improvements in Taranaki</b>	9 - 11
	<b>• Recommendations</b>	<b>One Separate Report 10 - 11</b>

		<b>Pages</b>
<b><u>Item 3</u></b>	<b>Exclusive Economic Zone Environmental Effects Legislation</b>	12 – 17
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<b><u>Item 4</u></b>	<b>Hearing of submissions on the Proposed Regional Policy Statement for Taranaki</b>	18 – 21
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<b><u>Item 5</u></b>	<b>Annual activity reports for 2007/2008</b>	22 - 23
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		<b>Two Separate Reports</b>
<b><u>Item 6</u></b>	<b>Building Act 2004 for Dams: Proposed Transfer of Functions to Environment Waikato</b>	24 – 48
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<b><u>Item 7</u></b>	<b>An introduction to nitrification inhibitors</b>	49 – 53
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<b><u>Item 8</u></b>	<b>Presentation – New Zealand Groundspread Fertilisers Association Conference</b>	54 – 62
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**Minutes of the Policy and Planning  
Committee Meeting of the Taranaki  
Regional Council, held in the Taranaki  
Regional Council Chambers, 47 Cloten  
Road, Stratford, on Thursday 12 June  
2008 at 10.30 am.**

**ITEM ONE**

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<b>Present</b>	Councillors	N W Walker P D Horton M A Irving	
		D N MacLeod	(ex officio)
<b>Representatives</b>	Councillor	A Hickey	(South Taranaki District Council)
	Mr	G Hight	(Federated Farmers of New Zealand)
<b>In attendance</b>	Councillors	B J Marsh R F H Maxwell	
	Messrs	B G Chamberlain M J Nield R A Phillips G C Severinsen	(Chief Executive) (Director-Corporate Services) (Director-Operations) (Policy Manager)
	Mrs	D A Smith	(Acting Committee Administrator)
	Ms	R Miller	(Policy Analyst)
	Mrs	J Bielski	(Policy Analyst)
	Ms	J Bowden	(Technical Officer)
	Mr	J Clough	(Wrightson Consulting)
		1 member of the media	
<b>Apologies</b>		Apologies were received and sustained from Councillors M J Cloke, M G Davey, M P Joyce, D L Lean and Mr J Rowe (Stratford District Council).	
<b>Notification of Late Item</b>		There were no late items.	

**1. Confirmed Minutes: Policy and Planning Committee Meeting  
- 1 May 2008**

**Recommended**

THAT the Taranaki Regional Council

1. receives the confirmed minutes of the Policy & Planning Committee meeting held on Thursday 1 May 2008 at 10.30 am.

08/115

Irving/Horton

### **Matters Arising**

#### Climate change policies briefing and workshop

It was noted that this workshop was well worthwhile.

## **2. Recreational Use of Coast, Rivers and Lakes in Taranaki**

- 2.1 Mr G K Bedford, Director—Environment Quality introduced the memorandum introducing a report on the recreational use of the coast, rivers and lakes in Taranaki. It was noted that a previous survey was undertaken in 1984 as part of the Ring Plain Water Resources Survey.
- 2.2 Ms Jane Bowden, Technical Officer provided Members with a powerpoint presentation on the findings of the survey. It was noted that the current report represented the results of a postal questionnaire and observation surveys undertaken to obtain up to date information on where people choose to go for recreational purposes as well as gauge the degree and types of recreational activities in which they engage.
- 2.3 The findings of the current survey would now be incorporated into state of the environment reporting and used as a basis for general water management.

### **Recommended**

THAT the Taranaki Regional Council

1. receives the memorandum on the Recreational Use of Coast, Rivers and Lakes in Taranaki 2007-2008
2. agrees the results of the report be incorporated into the State of the Environment report and used as a basis for general water management in the region.

08/116

Irving/MacLeod

## **3. Summary of interim comments received on the Regional Coastal Plan for Taranaki**

- 3.1 Mrs Jo Bielski, Policy Analyst provided Members of the Committee with a powerpoint presentation on the responses received to a request for interim comments on the current *Regional Coastal Plan for Taranaki* to assist in the Plan's review process. In response to this request, a total of 17 comments were received from various individuals and organisations.

- 3.2 It was noted that the comments would be used in the preparation of the draft *Regional Coastal Plan* but that any timeline for progressing the Draft Plan was very much dependant on progress made with regard to the *New Zealand Coastal Policy Statement*. The *New Zealand Coastal Policy Statement*, once approved, would have significant bearing on the content of the next *Regional Coastal Plan* and it was not considered desirable to progress the review into the formal statutory notification stage until the *New Zealand Coastal Policy Statement* was finalised.
- 3.3 It was agreed that the submitters should be thanked, noting that their comments would be taken on-board in the preparation of a Draft *Regional Coastal Plan*.

### **Recommended**

THAT the Taranaki Regional Council

1. notes the interim comments received on the *Regional Coastal Plan for Taranaki*
2. notes officers' comments in response to the main submission points made
3. endorses the officers' responses made, subject to comments received by Committee Members
4. agrees to circulate officers' responses to those that made comments in response to the Council's request for initial feedback.

08/117

Horton/Irving

## **4. State of the environment: Sustainable land-use monitoring in the eastern Taranaki hill country and coastal sand country**

- 4.1 Mr G Severinsen, Policy Manager spoke to the memorandum presenting the main findings of a report entitled *Sustainable Land-use monitoring in the eastern Taranaki hill country and coastal sand country – 2007 re-survey* prepared by Landcare Research Ltd on sustainable land-use monitoring in the eastern Taranaki hill country and coastal sand country.
- 4.2 It was noted that the results of the 25 site re-survey were good news for the Council and for Taranaki and that in 2007, 87.4% of the hill country monitoring area was being used sustainably – an increase in sustainability of 2.4% ( $\pm 1.5\%$ ). There was no change on the four coastal sand country sites.
- 4.3 Members agreed this was a positive and encouraging sign, particularly given that there had been good years for the meat and wool sector during the monitoring period and that good progress had been made in managing the issue of accelerated erosion in the eastern Taranaki hill country. It was concluded that farmers were good stewards of their land.
- 4.4 The results of the survey would be included in the Council's 2008 State of the Environment report currently in preparation.

## Recommended

THAT the Taranaki Regional Council

1. receives the memorandum on State of the Environment Sustainable land-use monitoring in the eastern Taranaki hill country and coastal sand country
2. notes that there has been an increase in sustainability on the 25 eastern Taranaki hill country monitoring sites of 2.4% ± 1.5% and no change on the four coastal sand country sites
3. notes that the results of the re-survey will be reported in the Council's 2008 State of the Environment report.

08/118

Irving/MacLeod

## 5. Release of MAF report: costs and benefits of climate change and adaptation to climate change in NZ agriculture

- 5.1 Mr G K Bedford, Director—Environment Quality spoke to the memorandum advising Members of the recent release of a report entitled *Costs and benefits of climate change and adaptation to climate change in New Zealand agriculture: what do we know so far?* prepared by MAF examining the implications of climate change for agricultural productivity and economics in New Zealand on a national and regional scale.
- 5.2 It was noted that the study found that for the Taranaki region, the probability of a moderate drought occurring in successive years had not changed and the probability of a severe drought was non-existent. The study found that Taranaki, Southland and the West Coast are regions of New Zealand least likely to experience drought in successive years.
- 5.3 It was noted that the study was not a comprehensive and integrated study of all consequences of climate change for agriculture but focused only on productivity. It confirmed and in some cases, reinforced some of the predictions and modelling outputs that have emerged previously, that overall Taranaki farmers will benefit from changes to the climate.

## Recommended

THAT the Taranaki Regional Council

1. receives this memorandum noting the release by MAF of the report *Costs and benefits of climate change and adaptation to climate change in New Zealand agriculture: what do we know so far?* and discussing the implications of its findings for the Taranaki pastoral agricultural sector.

08/119

Horton/Irving

## **6. Waste Minimisation Bill as reported back to Parliament**

- 6.1 Mr G K Bedford, Director—Environment Quality spoke to the memorandum updating Members on the progress of the Waste Minimisation Bill [formerly the Waste Minimisation (Solids) Bill which was in its final stages of consideration by Parliament and would take effect from 1 July 2009.
- 6.2 It was noted that despite strong submissions to the contrary, the Bill had no role for regional councils as of right. The Bill gave a wider range of functions to those involved in waste management, particularly territorial local authorities and any future involvement in waste management in the region by the Council would be provided for through the waste management plans of each district council.
- 6.3 It was noted that the Council had a long history of waste management involvement both independently and in conjunction with the district councils of the region. The Council currently had representation on the Regional Solid Wastes Working Party, convened a waste management forum of councillors and senior staff of all four councils and employed a Waste Minimisation Officer. It was noted that the role of the Waste Minimisation Officer could be continued if provided for in the waste management and minimisation plans of the territorial local authorities. Alternatively, the Council could apply for a grant towards this position, to be provided through the district councils, from the waste levy monies provided by the Government.

### **Recommended**

THAT the Taranaki Regional Council

1. receives this memorandum on the Waste Minimisation Bill as re-introduced back into the House of Representatives
2. notes that the Bill provides no role nor funding for a regional council to engage in waste management and waste minimisation activities
3. notes that under the provisions of the Bill, any such role involving partnership or coordination with the district councils would have to be provided for through a waste management and minimisation plan of each district council
4. discusses with the region's district councils through the Regional Solid Wastes Working Party and other avenues the future engagement of the Regional Council in waste management in the region.

08/120

MacLeod/Irving

## **7. National Policy Statement on Electricity Transmission**

- 7.1 Mr G Severinsen, Policy Manager spoke to the memorandum introducing the final gazetted National Policy Statement on Electricity Transmission (NPS) which came into force on 10 April 2008.
- 7.2 It was noted that following an initial assessment, it did not appear there was any need to change the Council's plans to give effect to the NPS as the plans already provided

for many of the activities associated with the operation, maintenance, upgrading and development of the electricity transmission network.

### **Recommended**

THAT the Taranaki Regional Council

1. receives the memorandum on the National Policy Statement on Electricity Transmission
2. notes that an initial assessment has been carried out that does not identify an immediate need to change Council plans to give effect to the National Policy Statement but that changes are likely to be made to the Proposed National Policy Statement for Taranaki in response to submissions that will give effect to the National Policy Statement on Electricity Transmission.

08/121

Horton/MacLeod

## **8. National Environmental Standard for Sources of Human Drinking Water**

- 8.1 Mr G K Bedford, Director—Environment Quality spoke to the memorandum updating Members on the implications for the Council and consent holders of the Ministry for the Environment 's National Environmental Standard for Sources of Drinking Water. This Standard has been legally gazetted and will come into force on 20 June 2008 although transitional provisions mean changes to permitted rules do not come into force until the *Regional Fresh Water Plan* is reviewed in 2011.
- 8.2 It was noted that the Council would be required to consider the effects of certain activities on drinking-water sources when granting water or discharge permits and when including or amending rules in a regional plan in relation to permitted activities. The regulations would also require the Council to impose a notification requirement on certain resource consents where a spillage event occurred that may have significant adverse effects on a drinking-water source.
- 8.3 It was noted that a programme of works has been identified for the Council to ensure compliance with the regulations, including identifying water supply catchments supplying over 25 people and those supplying over 500 people on the Council's GIS system so that advice can be provided to applicants on the water quality standards required.

### **Recommended**

THAT the Taranaki Regional Council

1. receives the memorandum
2. notes that the regulations that come into force on the 20<sup>th</sup> of June 2008, although transitional provisions mean changes to permitted rules do not come into force until the *Fresh Water Plan* is reviewed in 2011

3. notes that the regulations have implications for consent applicants in respect of information provision, and for the Council in assessing and determining applications and when drafting conditions where consents are granted
4. notes that these immediate implications are relatively minor and are able to be managed through reviewing consent processing procedures and updating information and advice provided to consent holders and applicants
5. notes that a programme of actions has been identified to ensure that the Council complies with the regulations.

08/122

Hickey/Horton

## **9. Effectiveness and Efficiency of the Regional Fresh Water Plan**

- 9.1 Ms R Miller, Policy Analyst provided a powerpoint presentation to Members introducing a report entitled *Effectiveness and efficiency of the Regional Fresh Water Plan for Taranaki*.
- 9.2 The report concluded that the achievement of the objectives in the *Fresh Water Plan* are generally on track and that the Council's regulatory and non-regulatory programmes are an effective and efficient means of delivering on those objectives.
- 9.3 It was agreed to circulate the report to key stakeholders for comment.

### **Recommended**

THAT the Taranaki Regional Council

1. receives the memorandum and attached report entitled *Effectiveness and efficiency of the Regional Fresh Water Plan for Taranaki*
2. agrees to circulate to key stakeholders the *Effectiveness and efficiency of the Regional Fresh Water Plan for Taranaki* for comment.

08/123

Horton/Irving

## **10. Trends in the ecological state of Taranaki's rivers and streams**

- 10.1 Mr G K Bedford, Director—Environment Quality spoke to the memorandum introducing an annual report entitled *Fresh Water Macroinvertebrate Fauna Biological Monitoring Programme Annual State of the Environment Monitoring Report 2006-2007*. The report detailed the findings of the Council's freshwater macroinvertebrate biological monitoring programme
- 10.2 It was noted that the report which looked at life in rivers and streams provided 'good news' with continuing maintenance or significant improvements in the state of Taranaki's surface waters.
- 10.3 The results would now be incorporated into the Council's 2008 State of the

Environment report.

**Recommended**

THAT the Taranaki Regional Council

1. notes the release of the report '*Fresh Water Macroinvertebrate Fauna Biological Monitoring Programme Annual State of the Environment Monitoring Report 2006-2007, Technical Report 2007-22*', Taranaki Regional Council December 2007
2. notes that the report finds continuing maintenance or significant improvement in the state of Taranaki's surface waters, as measured through biological indicators within a monitoring programme implemented as part of the Council's state of the environment monitoring
3. notes that this finding represents attainment of the objectives set out in the Council's Regional Fresh Water Plan for Taranaki (2001), 'to maintain and enhance the quality of the surface water resources of Taranaki..' (objectives 6.2.1 and 6.3.1).

08/124

MacLeod/Horton

**11. General Business**

There was no general business.

There being no further business, the Committee Chairman Councillor N W Walker, declared the Policy and Planning Committee meeting closed at 12.25pm.

**Confirmed**

**Chairman:** \_\_\_\_\_  
D N MacLeod

**Date:** 1 July 2008

**ITEM TWO**

24 July 2008

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**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Community investment in environmental improvements in Taranaki**

**Purpose**

1. To introduce a report prepared for the Council by Business and Economic Research Ltd (Berl) on community investment in environmental improvements in Taranaki. The report is an input into the Council's forthcoming state of the environment report.
2. A copy of the report is attached separate to the Agenda for Members' information.

**Background**

3. Reporting on community actions on environmental improvements is an important part of state of the environment reporting. While it is clearly necessary to report on the state of our environment through such things as water or air quality data, this only tells part of the story. Some may take the view for example that the environmental results being reported on are because there being few environmental pressures in Taranaki or that relatively little effort is required to maintain our generally high quality environment.
4. It is evident that a considerable amount of work is being put in by industry, the agricultural sector and the community at large on environmental protection and enhancement in Taranaki. During the lead up to the preparation of the Council's 2003 state of the environment report it was considered desirable to try and put some dollar value on this work to demonstrate in 'hard money' terms the quantum of spending on and level of commitment to environmental protection and enhancement in Taranaki.
5. Independent and specialist economic research consultants, Berl, were first commissioned to do this work in 2002 as an input into the Council's 2003 state of the environment report. At the time few other councils in New Zealand had attempted such an exercise. The results of that work showed a very high level of expenditure – conservatively estimated to be of the order of \$57 million per year – by the Taranaki community on environmental protection and enhancement in the region.
6. Berl was commissioned to update their work of five years ago as an input into the Council's 2008 state of the environment report.

**The Report**

7. The scope and method used in the attached report was the same as used in the 2002 report. Expenditure was calculated under three broad sectors: Community (as

represented for example through local council spending), Agriculture and Industry. Both capital costs and ongoing annual operating costs were identified.

8. Estimates of expenditure were obtained by a postal and email survey of main industries and district councils supplemented by information from the annual reports and plans of the district councils and the Taranaki Regional Council. Key information was verified and extended with field visits.
9. Information on agriculture was obtained from information held at the Council for example on fencing and planting of riparian margins, installation of bridges and culverts and upgrades of farm dairy effluent treatment systems. Costings were updated using price indexes published by Statistics New Zealand and Quotable Value and from information provided by agricultural suppliers and contractors.
10. The report indicates that over the past five years environmental capital investments on water resources, air and noise, land management, energy efficiency and environmental services totalled \$216.7 million – almost two and a half times the expenditure identified in 2002 for the previous five year period.
11. Considerable capital investment has been made by district councils on surface water quality particularly in the areas of wastewater collection, treatment and disposal. There has been a decline in capital investment by industry in water quality relative to the 1997 – 2002 period which is probably due to the very significant investment made by industry in this area over the earlier five year period. Investments by industry in air quality and land management have increased.
12. The agricultural sector has shown a more than three fold increase in expenditure on riparian protection (\$1.1 to \$3.6 million) and significant capital expenditure (\$12.3 million) on bridge, culvert and underpass construction.
13. The report records total spending on the environment (capital and annual operating costs) by the Taranaki community over the period 2002 to 2007 of \$85.1 million per annum - up from the \$57.1 million per annum recoded in the previous five year period. Some of this increase will reflect the fact information was collected from a larger number of industries. However, the report notes that due to the nature of the survey, the cost estimates derived are conservative.
14. The findings of the report will be included in the Council's next state of the environment report due for release later this year.

## **Recommendations**

THAT the Taranaki Regional Council:

1. receives the memorandum and report on '*Community investment in environmental improvements in Taranaki (2008)*';
2. notes the considerable expenditure being made by the Taranaki community on environmental protection and enhancement between 2002-2007 which is conservatively estimated at \$85.1 million per annum; and

3. notes that information from the report will be included in the Council's next state of the environment report due to be released later this year.

AD McLay  
**Director-Resource Management**

Approved:

B G Chamberlain  
**Chief Executive**

**ITEM THREE**

24 July 2008

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**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Exclusive Economic Zone Environmental Effects Legislation**

**Purpose**

1. To update Members on the proposed legislation for regulating environmental effects of activities in New Zealand's Exclusive Economic Zone (EEZ).
2. The Minister for the Environment has recently announced that Cabinet has now approved policy to underpin new legislation for regulating environmental effects of activities in New Zealand's EEZ and a Bill will be introduced into Parliament before the end of August this year. A Media Statement is attached for Members' information.
3. The Council has expressed an interest in environmental regulation beyond the Resource Management Act 12 nm boundary as coastal currents do not recognise this artificial statutory boundary and there can be cross-boundary effects. The oil and gas industry is based on and off shore Taranaki and there has been increased offshore activity in the EEZ of interest to the Council in recent years.
4. The new legislation is intended to come into force by the end of 2009.

**Background**

5. In December 2006, the Government agreed to the development of new legislation which would focus on filling key gaps in existing controls on the environmental effects of activities in the EEZ.
6. At its meeting held on 30 August 2007 the Policy and Planning Committee adopted a submission on the Ministry for the Environment's discussion paper entitled '*Improving Regulation of Environmental Effects in New Zealand's Exclusive Economic Zone*'.
7. This submission supported the need for progress to be made on proposals to improve the regulation of environmental effects in New Zealand's EEZ and submitted that a clear and cost-effective regulatory framework needed to be in place to ensure the long-term sustainable management of the area in New Zealand's national interest. It also submitted that any new regime established must provide the necessary power and resources to control and enforce compliance.

## Legislation

8. The proposed legislation will set out a new rules and consents regime for the EEZ and new controls are proposed to manage currently unregulated environmental effects of existing activities (such as disturbance of the seafloor through mining and petroleum activities) and the effects of new activities in the EEZ in future (such as marine farming, energy generation, carbon capture and storage).
9. The existing regime for allocating minerals and petroleum will stay the same but the environmental effects of those activities will be regulated under the new EEZ regime. The legislation will also address conflicts between new and existing activities in the EEZ.
10. The legislation will also enable stakeholders to have input into decisions about activities in the EEZ, including specific processes for Maori engagement.
11. Where environmental effects of activities are already regulated, they will not be covered by the new legislation. Existing laws for fisheries and maritime transport, for example, will continue to operate largely as at present.
12. The Minister for the Environment will be responsible for the legislation and regulations, and make decisions on EEZ consent applications.

## Recommendations

THAT the Taranaki Regional Council:

1. receives this memorandum; and
2. notes that legislation to manage the environmental effects of currently unregulated activities in New Zealand's Exclusive Economic Zone is to be drafted and a Bill introduced into Parliament before the end of August this year.

AD McLay  
**Director-Resource Management**

Approved:

B G Chamberlain  
**Chief Executive**

Click [here](#) to read a statement on the legislation by the Minister for the Environment

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24 July 2008

**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Hearing of submissions on the Proposed Regional Policy  
Statement for Taranaki**

**Purpose**

1. To seek agreement from the Committee that a Hearing of submissions on the Proposed Regional Policy Statement for Taranaki take place on the 4 September 2008 following the scheduled meeting of the Policy and Planning Committee and to briefly outline the format for the Hearing.

**Background**

2. Members have been kept up to date with progress on the review of the current Regional Policy Statement for Taranaki.
3. To recap briefly, the Council is required to commence a full review of an operative Regional Policy Statement no later than 10 years after the Statement became operative. The Regional Policy Statement for Taranaki was made operative in 1994. A review of the Council's operative Regional Policy Statement was commenced within the required timeframe and this led to a revised Proposed Regional Policy Statement being publicly notified for submissions in September 2006. This started the formal statutory review process.
4. A total of 35 submissions were received. The Council was then required to summarise the submissions received, publicly notify the availability of this summary and call for further submissions in support or opposition to the initial submissions received. A total of 21 further supporting or opposing submissions were received.
5. Earlier this year the Committee received an Officer's report on submissions. That report presented all 35 initial submissions (and 585 individual submission points raised in submissions), noted all further submitters who had supported or opposed each submission point, set out a response to the matters raised under each submission point and provided a recommendation to either grant or decline the relief sought in submissions.
6. The Committee agreed that the Officer's report be distributed to all submitters as a basis for pre-hearing consultation with submitters. The intention of this pre-hearing stage of the process was to determine whether submitters were satisfied with the Officer recommendations or wished to engage in further discussions with a view to reaching

agreement on where further changes might be made, thereby reducing the number of submitters and length of time required to hear submissions at a formal Hearing. This process has been very successfully applied by the Council in the past and has been welcomed by submitters as a positive and constructive step in the process.

7. Members are reminded that the Committee did not adopt the recommendations in the Officer's report – rather the Committee agreed to distribute the report as a basis for further dialogue with submitters prior to the Hearing of submissions. The Committee will only make its recommendations to the Council on decisions to be made once the pre-hearing process has been completed and submissions have been heard.

### **Pre-hearing process**

8. At the time of writing this memorandum pre-hearing meetings or discussions had been completed with some 28 of the 35 submitters. Discussions with the remaining submitters will be held or concluded over the next few weeks. It is then proposed that a revised Officer's report summarising the outcome of the pre-hearing discussions be circulated to submitters in the first week or two of August and before the hearing of submissions on 4 September.
9. The pre-hearing process has been well received by submitters so far. Submitters have had the opportunity to elaborate on their concerns and to seek further amendments to the recommendations made in the Officer's report. The opportunity has also been taken for the Council to expand on its reasons for the recommendations made in the Officer's report. The majority of submitters have indicated they will not be appearing at the hearing.
10. A number of submitters indicated that they were happy with the Officer's report and recommendations and did not wish to engage in pre-hearing meetings or attend a hearing. In other cases some changes have been made but these are of a relatively minor nature, for example to add words to clarify or better explain a provision in the Proposed RPS or simply to include additional information to assist users of the RPS. Some changes were made to reflect the National Policy Statement on Electricity Transmission which became operative after release of the Officer's report. None of the changes made thus far during the pre-hearing process have altered the fundamental policy direction of the Proposed RPS.
11. Pre-hearing consultation has yet to be concluded with several submitters but this is anticipated to occur in the next two to three weeks.

### **Hearing of submissions**

12. As noted above it is proposed that a Hearing of submissions on the Proposed Regional Policy Statement for Taranaki takes place following the conclusion of the Policy and Planning Committee meeting on Thursday 4 September 2008.
13. At this stage it is uncertain how long the Hearing might take – this depends entirely on how many submitters wish to attend and how long they need to present their submissions. It is possible that up to ten or a dozen submitters may wish to attend the Hearing and that the Hearing could be completed in the afternoon of 4 September. There is a possibility that further hearing time might be required on another day but given the success of the pre-hearing process thus far this seems unlikely at this stage.

14. The Hearing of submissions takes place before the full Policy and Planning Committee (reconvened as the Hearing Committee) and all Members take full part in the deliberations including voting on the recommendations to be made by the Committee to the Council. Normal Committee protocols and procedures apply. However, the hearing is a quasi judicial process and rules that apply to such Hearings will apply in this case. For example, submitters are entitled to a fair hearing of their submission but submitters cannot introduce new points not already covered in their original submissions. No cross examination of witnesses is permitted and questions of submitters or their witnesses by councillors must be directed through the Chair. If there is a conflict of interest between a member of the Committee and a submitter then the Committee member is expected to declare the conflict and abstain from involvement in the deliberations on that submission.
15. The format of the Hearing is as follows:
  - Welcome and introduction by the Chair
  - Confirmation of attendees and order of appearance
  - Submitters present their verbal submissions in order of appearance (with questions as appropriate from Committee members)
  - Summary of main issues arising from the Hearing of submissions
  - Committee makes decisions (recommendations) on all submissions having regard to all written and verbal submissions made, the Officer's report on submissions and the requirements of the Act.
16. Once the Hearing has been completed and the Committee has made its decisions, Officers will compile a 'Decisions' document for consideration and likely adoption by the Council. The Council is required to give reasons for its decisions.
17. Submitters have 30 working days from receipt of the Council's decision to appeal to the Environment Court against the Council's decision.
18. The Council approves the Regional Policy Statement once amendments have been made following appeals (if any). The Council may however approve part of the RPS if all submissions or appeals relating to that part have been disposed of. If there are no appeals it is likely that the Regional Policy Statement for Taranaki would be made operative late this year or early next year.

### **Decision-making obligations**

19. Part 6 (Planning, decision-making and accountability) of the Local Government Act 2002 has been considered and documented in the preparation of this agenda item. The recommendation(s) made in this item comply with the decision-making obligations of the Act.

### **Policy considerations**

20. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the Local Government Act 2002, the Resource Management Act 1991 and the Biosecurity Act 1993.

### **Financial considerations**

21. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Council Community Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Legal considerations**

22. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Recommendations**

THAT the Taranaki Regional Council:

1. receives the memorandum on the Hearing of submissions on the Proposed Regional Policy Statement for Taranaki;
2. agrees that a Hearing of submissions on the Proposed Regional Policy Statement for Taranaki takes place on Thursday 4 September 2008 following the meeting of the Policy and Planning Committee scheduled for that day; and
3. agrees that the Policy and Planning Committee reconvene as the Hearing Committee to hear submissions on the Proposed Regional Policy Statement for Taranaki.

AD McLay  
**Director-Resource Management**

Approved:

B G Chamberlain  
**Chief Executive**

24 July 2008

**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Annual activity reports for 2007/2008**

**Purpose**

1. To introduce reports on the Council's activities in the 2007/2008 year. At the end of each financial year, annual activity reports are prepared outlining the progress made in the achievement of the Council's various programmes and activities.
2. Attached separate to the Agenda for Members' information are the following annual activity reports:
  - Policy and Planning
  - River Control and Flood Management.

**Background**

3. The activity reports are structured on the Council's annual plan which has an objective and programme for the year under each significant area of activity. The reports describe the activities undertaken towards the achievement of the programme. This is done in an informative and appealing manner by the use of graphs, tables, charts and photographs. The reports contain more detailed information on operational matters and less emphasis on financial reporting than the Council's Annual Report. They also focus more on the outcomes achieved.
4. Further reports on significant areas of activity will be provided for consideration by appropriate Council committees in August and September as they are completed.
5. The reports are available to auditors to note detailed performance and copies will be sent to key stakeholders, put on the website, and will be made available to the public on request.

**The reports**

6. A brief summary of the highlights in each report follows:

**Policy and Planning**

7. This report notes the continuation of the reviews of the *Regional Air Quality Plan for Taranaki* and the *Regional Policy Statement*, the commencement of a review of the *Regional Coastal Plan for Taranaki* and the commencement of an interim review of the *Regional Fresh Water Plan for Taranaki*. Also commenced was the preparation of the Council's five yearly State of the Environment Report.

8. An Operational Plan for Pest Animal Management in Taranaki and a Biodiversity Operational Strategy to guide the Council's priorities and actions on biodiversity were adopted. A third annual report on the Dairying and Clean Streams Accord and a second report on progress towards achieving community outcomes were completed. Advocacy and response continued to be an important area for the Council with 30 submissions lodged during the year, a small decrease over the previous year. This activity continues to achieve good success with changes being made to a number of the policies or approaches of other agencies.

### **River Control and Flood Management**

9. This activity encompasses the maintenance of flood protection schemes, undertaking river control works, monitoring and providing information on rainfall and river levels, and responding to public requests for information on river control and flood protection issues.
10. In 2007/2008, there was continued maintenance of the Waitara Flood Protection Scheme. Caretaking activities throughout the whole scheme area continued during the year and included vegetation control, mowing of stopbanks and berms, weed control and management of plantings within the wildlife habitat area developed adjacent to the main groynes. Passive recreation and community care is being encouraged within Council owned reserve land.
11. The Waiwhakaiho Flood Control Scheme continued to be managed and maintained with maintenance work focussed on removing invasive vegetation considered restrictive to flood capacity. Preliminary investigations continue to facilitate a more detailed study of a Scheme upgrade of the Lower Waiwhakaiho to provide a higher level of protection of the increasing assets within the Waiwhakaiho Scheme area. Consultants have completed the initial Scheme Review Report which will lead to more detailed investigations during 2008/2009.
12. A further 3.5 km of willow and poplar clearing was undertaken in the Waitotara River as part of the agreed clearance and maintenance programme.
13. Through its river control and flood protection activities, the Council is ensuring that the risks and associated costs of damage by rivers and floods are managed appropriately and to acceptable levels and is contributing towards making Taranaki a prosperous, sustainable, secure and healthy region.

### **Recommendations**

THAT the Taranaki Regional Council:

1. receives the memorandum and annual reports for 2007/2008 on Policy and Planning and River Control and Flood Management; and
2. notes that the reports will be made available to key and interested stakeholders.

Approved:

AD McLay  
Director-Resource Management

B G Chamberlain  
Chief Executive

**ITEM SIX**

24 July 2008

[Back to index](#)

**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Building Act 2004 For Dams:  
Proposed Transfer of Functions To Environment Waikato**

**Purpose**

1. To update Members on the transfer of Building Act 2004 functions, duties and powers for dams and their appurtenant structures, under Part 2 of the Act, to Environment Waikato, and to note the functions, powers, and duties under the Act retained by this Council.

**Background**

2. Members have received various memoranda on the Act and its implications for this Council. The memorandums stretch back to November 2003 and have endeavoured to keep Members informed about the legislative changes, and their implications for the Council, and the joint council approach being adopted to address these new requirements. Basically, the Council is required to become an accredited Building Consent Authority (BCA) to process building consent applications for significant modifications to existing large dams and their appurtenant structures, and new large dams in much the same way district councils have had to become accredited BCAs to process consents for buildings. Attempts to negotiate with the Department of Building and Housing, a separate less rigorous regime for dams, was not successful.
3. There are eight existing dams and few likely future large dams in the region captured by the Building Act requirements. Over the last five years the Council would have received about one application, on which it would have to apply BCA functions to, which reflects the very low work level. The cost of becoming a BCA and the intensive ongoing audit, training, system modification etc requirements over five years is estimated at \$140,000. Councils are expected to pass all or some of the costs onto applicants which is clearly unrealistic and untenable. Hence there is a high cost of the new regime for this Council and ways to minimise these costs have been vigorously explored.
4. As Members may recall, the Taranaki Regional Council has been working collaboratively with other regional councils to determine the most efficient way to best meet its obligations under the Act. The preferred option was a collaborative model where three regional councils take a lead role and become accredited and registered BCAs and the remaining regional councils would transfer their functions, duties and powers to the lead council(s).

5. Prior to making a decision to transfer powers to another regional council, the Council was required to follow a Special Consultative Procedure under the Local Government Act 2002. This process occurred in mid-2007 and no submissions were received.
6. North Island regional councils (i.e. Northland, Auckland, Hawkes Bay, Taranaki, Manawatu/Wanganui, and Wellington) have been working collaboratively to find a suitable council to transfer functions to. Environment Waikato was identified as being the likely Council to receive the transfer and this Council, under delegated authority to the Chief Executive established at the 19 September Policy and Planning Committee, has been negotiating a transfer agreement with Environment Waikato.
7. Environment Waikato has employed an ex district council Building Act specialist to undertake the BCA accreditation process and manage the process going forward. If there is insufficient work then the staff member will undertake other duties in Environment Waikato and accordingly ongoing costs to the councils will be lowered.
8. Auckland Regional Council has signalled it not join the group and will separately become an accredited BCA but will contribute its share to establishment costs, reducing the costs to other councils.
9. This Council's share of the cost of Environment Waikato's BCA accreditation is estimated at \$31,000. An annual payment of \$2500 is to go into a fund for the additional insurance cover, which eventually may well be returned to the Council, with interest, if it is not required. The 2007/08 budget was \$16,000 so there is a budget item shortfall this year that will be offset by the increased income from consent processing.
10. The ongoing annual cost for Environment Waikato and the Council's share of this is difficult to estimate given the activity is new. User pays regimes will be put in place and it is expected that 70 % of the overall cost will be recovered from applicants in much the same way RMA user pays regimes operate. Hence, the Council's ongoing cost is expected to be less than the \$11,000 budget.
11. The Chief Executive has signed the Transfer Deed and an accompanying Memorandum of Understanding (MOU). A decision was made to enter into an MoU to capture agreements that were reached outside the Deed which deal with operational matters.
12. Copies of these documents are attached to this Memorandum.
13. Transfer of powers to another regional authority is required by 30 June 2008.

### **Functions transferred**

14. The functions of a BCA were transferred together with some complementary non-BCA functions. These are set out in the Deed.
15. In simple terms a Taranaki applicant for a building consent would be able to:
  - Obtain pamphlets on the Building Act process at the Council office or on its website, receive information on why the Council transferred the functions, and ascertain who to contact at Environment Waikato.
  - Meet TRC consents staff for pre-application consultation on possible RMA requirements for the proposed activity and make a Project Information Memorandum application (see paragraph 17 below).

- Environment Waikato would provide pre-application Building Act advice and have access to the necessary consultant engineering and other expertise to process the application, make any further information requests, and charge the applicant for the process.
- Environment Waikato would also be able to use low level enforcement tools for non-compliance during the application process (i.e. issue notices to fix (like the abatement notice provisions under the RMA) and issue infringement notices for the non-supply of information).
- Environment Waikato would finally issue a code of compliance certificate for the activity which notes the work has been completed in accordance with the building consent and the Act. The TRC would receive a copy of the certificate and have access to the application file.
- Environment Waikato would provide a six monthly report on the exercise of the functions transferred and this information would be included in the Consents Annual Activity report to Council and the community.

### **Transfer deed**

16. The transfer deed is reasonably standard and self explanatory but does include an insurance clause, at the request of Environment Waikato, to address their concerns about managing their liability in acting as a BCA. All the other councils to the Deed have adequate insurance to cover any claim but a mechanism to provide additional cover was agreed.

### **Functions retained**

17. The Council has retained the following main functions under the Building Act:
  - The preparation and maintenance of a Dangerous Dams Policy. The Council adopted its policy in 2006 and this is reviewed every five years or if legislative change occurs. The Department of Building and Housing has signalled the policy will have to be reviewed when the regulations establishing medium to high impact dams, that are captured by the BCA provisions, are finalised in mid-2008.
  - Maintaining a register of dams in the region, although the exact nature of the register will be known when the DBH regulations are finally completed.
  - The provision of Project Information Memorandum (PIM). A PIM is a memorandum issued by the council in respect of a proposed dam and contains information about the land and the requirements of other Acts that might be relevant to the proposed dam. As such a PIM can include information about natural hazard risks, contaminated land and heritage values, and cover a number of sections or databases within the Council and a procedure for processing such applications is being developed collaboratively.
  - The administration of Building Warrants of Fitness. Some dams have specified systems (e.g. lifts, automatic fire sprinklers etc) that each year must be checked and signed off by an appropriate person. The dam owner then forwards this information to the Council who files it.

- The ability to address problems with small/medium sized dams that become dangerous, although RMA provisions also exist for this.
- Dam safety functions for the ongoing monitoring of the dam. It is envisaged this would be incorporated into the RMA compliance monitoring programmes, depending on the skill set needed for the monitoring. If a dam owner employs a recognised engineer to complete the monitoring, including a dam safety assurance programme, then the Council under the Act must accept this and does not need to undertake monitoring. All the large dams in the region have such safety programmes in place.
- Ability to warrant officers and undertake enforcement action for non-BCA functions under the Building Act. The Council would be able to undertake appropriate enforcement action for non-compliance. A wide range of non-compliance matters are covered by infringement notice provisions with set fines ranging between \$250 and \$ 2500. The maximum fine under the Act is the same as the RMA (\$200,000).

### **Council process changes**

18. Arising from the transfer and the new functions under the Building Act the Council will have to modify internal processes that address consents, enforcement and charging. All the dams that will be covered by the Building Act are also covered by the RMA so consent file systems and processing procedures already exist and can be used with minor modifications. Warranting of enforcement officers and enforcement provisions and procedures will also be modified. The delegations manual will also be reviewed and any necessary changes made. A charge will be established for PIMs and any other new function under the Act. Under the Building Act a local authority does not have to go through a public procedure to set charges, as for RMA charges, but the same reasonableness tests apply.
19. A key part of the accreditation of Environment Waikato was establishing the interface between the transferring councils and itself. The approach being adopted by this Council meets these requirements.

### **Transition management**

20. The district councils are presently responsible for Building Act functions for dams, not that there is much work for the reasons noted above. As part of managing the transition process the councils have been requested to provide this Council with any relevant material. If there are any applications in transition then these must be completed by the councils prior to the transfer or started afresh with Environment Waikato.

### **Assessment**

21. The Taranaki region is likely to have very few medium/large dams that will be captured by the Building Act regulations. Even with climate change and increased returns from dairying there are likely to be few such dams in future. Hence there is unlikely to be much Building Act work in the region and the costs of the new functions would seem excessive and unreasonable. Nonetheless every effort has been made to work collaboratively and pragmatically to minimise council costs.
22. Notwithstanding this Council's position the combined cost savings are significant for the North Island councils transferring BCA functions to Environment Waikato. However, it is interesting to note that the original driver for the legislative change to the

Building Act for dams was to integrate RMA and Building Act provisions at regional councils, and that the intensive accreditation requirements and high costs have resulted in councils transferring functions, meaning this may not be achieved in practice.

### **Decision-making obligations**

23. Part 6 (Planning, decision-making and accountability) of the Local Government Act 2002 has been considered and documented in the preparation of this agenda item. The recommendation(s) made in this item comply with the decision-making obligations of the Act.

### **Policy considerations**

24. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the Local Government Act 2002, the Resource Management Act 1991, the Building Act 2004, and the Biosecurity Act 1993.

### **Financial considerations**

25. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Council Community Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Legal considerations**

26. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Recommendations**

THAT the Taranaki Regional Council:

1. receives this memorandum;
2. notes the Consents Section budget for Building Consent Authority accreditation was exceeded;
3. notes Building Act 2004 transition arrangements are in place between the district councils and this Council;
4. notes minor changes to delegations, consents, enforcement, officer warranting, and charging actions/procedures/policies will be made to incorporate the changes arising from new functions under the Building Act 2004 and the transfer of some of these functions to Environment Waikato;
5. notes under the Building Act 2004 all the functions, powers and duties of a Building Consent Authority and some complementary non-Building Consent Authority functions were transferred;
6. notes the transfer deed and memorandum of understanding were signed, under delegated authority by the Chief Executive on 22 June 2008, and the transfer is effective of 30 June 2008 as per the two documents;

7. notes under the Deed Environment Waikato are to provide a six monthly report on the exercise of the transferred functions and these will be available to Members as part of the Consents Annual Activity report; and
8. notes the Council will retain some Building Act 2004 functions and is working collaboratively with other councils to develop standard operating procedures and guidance material for staff to efficiently deliver these functions.

AD McLay  
**Director-Resource Management**

Approved:

B G Chamberlain  
**Chief Executive**

**TARANAKI REGIONAL COUNCIL**

A Body Corporate under the Local Government Act 2002

**WAIKATO REGIONAL COUNCIL**

A Body Corporate under the Local Government Act 2002

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**DEED OF TRANSFER OF BUILDING ACT FUNCTIONS**

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Taranaki Regional Council  
Document No:

- 3 JUL 2008

Document No of Reply:

1<sup>st</sup> July

**PARTIES**

**TARANAKI REGIONAL COUNCIL** ("A Body Corporate under the Local Government Act 2002") ("Taranaki Regional Council")

**WAIKATO REGIONAL COUNCIL** ("A Body Corporate under the Local Government Act 2002") ("WRC")

**BACKGROUND**

- A. Taranaki Regional Council is the regional council for the Taranaki Region and is a regional authority under the Building Act 2004.
- B. WRC is the regional council for the Waikato Region and is a regional authority under the Building Act 2004.
- C. The Building Act 2004 confers on regional authorities functions, duties and powers in relation to dams.
- D. Section 244 of the Building Act 2004 enables a regional authority to transfer one or more of its functions, duties and powers under that Act to another regional authority.
- E. Taranaki Regional Council wishes to transfer to WRC those functions, duties and powers of a regional authority under the Building Act 2004 which are set out in the attached Schedule 1 ("the scheduled functions").
- F. Before entering into this Deed, Taranaki Regional Council has used the special consultative procedure in section 83 of the Local Government Act 2002 and served notice on the Minister of Local Government of the proposal to transfer the scheduled functions.
- G. Taranaki Regional Council has agreed to transfer to WRC and WRC has agreed to accept the transfer of the scheduled functions of Taranaki Regional Council as a regional authority under the Building Act 2004 in respect of dams in the Taranaki Region.
- H. Taranaki Regional Council and WRC have agreed that the transfer of the scheduled functions is desirable on the grounds of efficiency, technical and special capability and expertise.



- I. Taranaki Regional Council and WRC have agreed that the transfer should be on the terms and conditions set out in this Deed.
- J. In this Deed the term 'Transferring Regional Councils' means all of the Regional Councils who are a party to one of these Deeds with WRC as at that time or who were a party to one of these Deeds as at the time the incident/claim occurred that is referred to in that particular clause of the Deed.
- K. This Deed is effective from 30<sup>th</sup> June 2008.

**THIS DEED THEREFORE RECORDS:**

**Transfer**

- 1 Taranaki Regional Council transfers to WRC the functions, duties and powers of a regional authority under the Building Act 2004 in relation to dams in the Taranaki Region, as set out in the scheduled functions.
- 2 WRC accepts the transfer made by clause 1 of this Deed.
- 3 Taranaki Regional Council retains all functions, duties and powers of a regional authority under the Building Act 2004 in relation to dams that are not set out in the scheduled functions.
- 4 This transfer is on the terms and conditions set out in this Deed and is subject to the provisions of the Building Act 2004, including any amendments or any enactment made in substitution for the Building Act 2004.

**Accreditation and Registration**

- 5 WRC must for the purposes of performing the scheduled functions use its best endeavours to:
  - 5.1 Apply for and gain accreditation under Sub-Part 4 of Part 2 of the Building Act 2004; and
  - 5.2 Apply for and be registered as a building consent authority under Part 2 of the Building Act 2004; and
  - 5.3 Maintain that accreditation and registration at all times.
- 6 The transfer of functions, duties and powers which require accreditation under Sub-Part 4 of Part 2 of the Building Act 2004 made by this Deed will become void if WRC

- fails to gain accreditation under Sub-Part 4 of Part 2 of the Building Act 2004 or fails to retain that accreditation.
- 7 The transfer of functions, duties and powers which require registration under Part 2 of the Building Act 2004 made by this Deed becomes void if WRC fails to gain registration as a building consent authority under Part 2 of the Building Act 2004 or fails to retain that registration.
- 8 If under clauses 6 or 7 of this Deed, part of the transfer of the scheduled functions becomes void, the transfer of all other scheduled functions will not be affected but remain in full force and effect.
- 9 WRC will not be liable in any way whatsoever to Taranaki Regional Council if it fails to gain or retain accreditation or registration.

### **Insurance**

- 10 WRC will at all material times have in place insurance cover (Public Liability and Professional Indemnity) against all actions, claims, proceedings and demands made by any third party in respect of WRC's performance and/or non-performance, whether negligent or otherwise, of the scheduled functions set out in this Deed in relation to any dams in any region of the Transferring Regional Councils or WRC subject only to the terms, conditions and exclusions of the insurance which will be consistent with standard practice in the Local Government Sector in New Zealand.
- 11 Taranaki Regional Council will pay to WRC on demand a proportionate share of the total annual costs incurred by WRC in order to maintain such insurance. Such contribution shall be equal to the amount paid by WRC, and each of the other Regional Councils which transfer the scheduled functions set out in this Deed to WRC so that the total costs of insurance are shared equally between WRC and all Transferring Regional Councils.
- 12 Taranaki Regional Council shall notify WRC within five working days of being informed of any information or incident whereby a potential action, claim, proceeding or demand could be made by a third party against WRC or Taranaki Regional Council in relation to the scheduled functions. Where WRC receives any notification of this kind, it shall immediately notify the insurers who have approved the insurance cover referred to in clause 10 above, of the information or incident.



## Indemnity

- 13 Taranaki Regional Council partially indemnifies WRC against all uninsured damages, losses, costs and expenses incurred by WRC in defending and making good any such claim as referred to in clause 10 above but does not indemnify WRC to the extent that the liability was caused or contributed to by the negligence of WRC, and in the event that liability was partially caused or contributed to by the negligence of WRC then to the extent of the proportion of liability that is attributed to the negligence of WRC by judgment of the courts.
- 14 The extent of the indemnity shall be equal to the amount of the indemnity provided to WRC by all other Transferring Regional Councils and an equal contribution made by WRC to such uninsured damages, losses, costs and expenses.
- 15 The total of all uninsured damages, losses, costs and expenses referred to in clause 13 above shall be met by all Transferring Regional Councils and WRC in equal proportions regardless of the location and in which participating region the alleged breach of the scheduled functions is alleged to have occurred.
- 16 Taranaki Regional Council shall pay to WRC a contribution of \$2,500 on an annual basis, and such contribution shall be held by WRC, in an interest bearing account, undisbursed until such time as WRC notifies Taranaki Regional Council of a claim to the indemnity set out in this Deed. Upon providing notification to all of the Transferring Regional Councils WRC may use the contributions and all other funds provided to it by all Transferring Regional Councils to meet any uninsured damages, losses, costs and expenses referred to in clause 13 of this Deed.
- 17 The annual contributions may be refunded by WRC to the Transferring Regional Councils at any time at WRC's discretion, and WRC may, at it's discretion, cancel (or resume) the annual contribution payments from time to time. WRC will keep the Transferring Regional Council's fully informed of any changes to the annual contributions under this clause.
- 18 In addition to the annual contribution set out in clause 16 above, Taranaki Regional Council shall pay to WRC on demand such additional sums as are reasonably required to give effect to the terms of this indemnity.



### **Distribution of Costs**

- 19 Costs will be incurred by WRC through the accreditation process, preparing to operate as a Building Consent Authority and through undertaking the scheduled functions on behalf of the Transferring Regional Councils.
- 20 Taranaki Regional Council shall pay to WRC a contribution of the costs incurred by WRC in undertaking accreditation and the transfer of the scheduled functions based on the following principles:
- 20.1 The establishment cost shall be shared equally between all Regional Councils participating in the transfer of Building Act functions to WRC (including WRC);
- 20.2 The on-going costs shall be shared equally between all Regional Councils participating in the transfer of Building Act functions to WRC (including WRC);
- 20.3 Any process costs that are not recoverable from a third party shall be paid by the appropriate Regional Council.
- 21 The three categories of costs referred to in clause 20.1-20.3 above are defined in Schedule 2 of this Deed.
- 22 At all times WRC will endeavour to keep costs to Taranaki Regional Council to the agreed budget and wherever possible to a minimum and will ensure that wherever possible costs are recovered from a third party.

### **Reporting**

- 23 WRC must report to Taranaki Regional Council at six-monthly intervals on the exercise of the scheduled functions.
- 24 Taranaki Regional Council may at any other time request from WRC other information it may reasonably require concerning the exercise of the scheduled functions.

### **Systems and Procedures**

- 25 WRC shall prepare and maintain resources, systems and procedures required to undertake the functions, duties and powers transferred under this Deed.



## **Intellectual Property**

- 26 Ownership of intellectual property rights relating to any systems and processes developed by WRC and/or its Consultants for the purpose of undertaking the functions, duties and powers relating to this Deed shall lie jointly and equally with WRC and all of the Transferring Regional Councils and shall not be passed to or shared with any other party (except for other Regional Councils) unless expressly approved by WRC and all of the Transferring Regional Councils in writing.

## **Disputes**

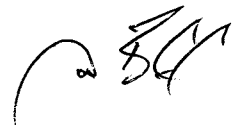
- 27 If any dispute arises between Taranaki Regional Council and WRC, the Chief Executives of Taranaki Regional Council and WRC, or their nominees, must meet and try to resolve the dispute.
- 28 Failing resolution, the dispute shall be submitted to a single arbitrator for determination under the Arbitration Act 1996.
- 29 The arbitrator shall be appointed by agreement of Taranaki Regional Council and WRC. If no agreement is reached within 14 days of the Chief Executives, or their nominees, failing to resolve the dispute, then either party may request that the President of the New Zealand Law Society appoint the arbitrator.
- 30 The arbitrator's decision shall be final and binding on the parties.

## **Review**

- 31 This Deed and the attached Schedules shall be reviewed by Taranaki Regional Council and WRC one year after the date of this Deed. The Deed and the attached Schedules shall be reviewed yearly where agreed by both parties and shall be reviewed at least every three years in any event.
- 32 This Deed and the attached Schedules may be amended by agreement in writing signed by both parties.

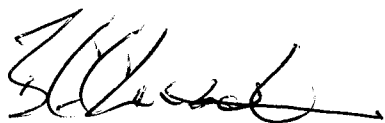
## **Termination**

- 33 Taranaki Regional Council may terminate this Deed by giving WRC at least 12 months written notice of the termination at any time.
- 34 WRC may terminate this Deed by giving Taranaki Regional Council at least 12 months written notice of the termination at any time.



- 35 Otherwise this Deed may be terminated at any time by agreement between Taranaki Regional Council and WRC.
- 36 Upon the termination of this Deed, Taranaki Regional Council shall be responsible for the performance of the scheduled functions which were transferred to WRC under this Deed.
- 37 Taranaki Regional Council shall remain liable under clauses 13, 14, 15 and 20 of this Deed (and WRC may continue to hold and/or apply contributions made under clause 16 of this Deed in accordance with that clause) in relation to any acts that occurred during the period that Taranaki Regional Council was a party to this Deed, notwithstanding termination of this Deed.

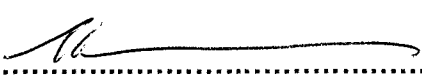
**SIGNED for and on behalf of  
TARANAKI REGIONAL COUNCIL**

By: ..... Signature: 

**B G Chamberlain**  
**Chief Executive Officer**  
**Taranaki Regional Council**

Position: ..... Date: 20 June 2008

**SIGNED for and on behalf of  
WAIKATO REGIONAL COUNCIL**

By: HARRY WATERHOUSE WILSON ..... Signature: 

(Full Name)

Position: CHIEF EXECUTIVE ..... Date: 1/07/08

## SCHEDULE 1

The Building Act 2004 functions, duties and powers that this Deed transfers are:

- all of the Building Consent Authority functions (as identified in the Building (Accreditation of Building Consent Authorities) Regulations 2006 including any amendments or any enactment made in substitution); and
- the non-Building Consent Authority functions identified in the table below

in relation to dams.

The non-Building Consent Authority functions which are transferred to WRC through this Deed are listed in the following table:

<b>BUILDING ACT 2004 SECTION REFERENCE</b>	<b>NON-BUILDING CONSENT AUTHORITY FUNCTIONS</b>
59	Forwarding levy to Department of Building and Housing.
60	Retaining 3% of levies.
62	Recovering unpaid levies.
64(1)	Records of building consents.
68	Notification of waiver or modification to Department of Building and Housing.
112(2) and 113	Alterations to existing dams.
115	Determine change of use requests.
116	Determine extension of life requests.
164-167	Notices to fix but only where the notice to fix relates to the functions, powers and duties otherwise transferred in this Schedule.
216	Keep information about dams but only that information related to the functions, powers and duties otherwise transferred in this Schedule.
217	Allow access to information, but only to the extent that the information relates to the functions, powers and duties otherwise transferred in this Schedule.
218	Provide information, but only the information that relates to the functions, powers and duties otherwise transferred

	in this Schedule.
222(2) and 222(4)(a)(ii) and (iii), 224 and 226-228	Inspections by authorised officers where inspections relate to the functions, powers and duties otherwise transferred in this Schedule.
229-230	Authorise enforcement officers, but only where infringement notices relate to the functions, powers and duties otherwise transferred in this Schedule.
243(1)(a)(ii), 243(1)(c) and 243(2)	Impose fees or charges, recover costs and collect levies but only in relation to the functions, powers and duties otherwise transferred in this Schedule.
363A	Certificates for public use.
377	Laying information, but only in relation to the functions, powers and duties otherwise transferred in this Schedule.

*ELC*

*e*

## SCHEDULE 2

Below is a description of each of the categories of costs referred to in clause 20 of this Deed and details of the invoicing methods to be implemented with each category of costs.

The costs described below are not definitive and there may be extraordinary costs that arise that will need to be negotiated between the Transferring Regional Councils and WRC.

### **Establishment Cost**

This is a one-off cost that will cover WRC becoming accredited for the first time and will include the initial accreditation fee, staff costs (including overheads) and the consultation and legal costs incurred in the initial accreditation process and the development of the transfer arrangements.

The establishment cost will be shared equally between all Transferring Regional Councils and WRC. WRC will send an invoice to each of the Transferring Regional Councils for their portion of the establishment costs once the total establishment cost has been determined.

### **On-going Costs**

These are annual costs which include ongoing costs of maintaining staff (including overheads) and systems to enable WRC to undertake the scheduled functions, ongoing audit and accreditation fees and any insurance costs as referred to in clause 11 of this Deed. On-going costs will also include the annual contribution by each Transferring Regional Council and WRC towards the uninsured costs referred to in clause 16 of this Deed.

A portion of the on-going costs e.g. the actual staff hours spent on an application, will be recoverable from third parties as part of the process costs (see below) however, the remainder of the on-going costs will be shared equally between the Transferring Regional Councils and WRC. WRC will send quarterly invoices to each of the Transferring Regional Councils for their portion of the last quarters on-going costs and the fourth quarters invoice will be adjusted at the end of the financial year for actual costs payable.



**Process Costs**

These costs will be on a case-by-case basis and consist of the costs of processing an application that WRC is not able to recover from an applicant. If there are costs associated with the processing of an application that are not recoverable from an applicant then these process costs will be recoverable from the appropriate Regional Council. WRC will engage with the appropriate Transferring Regional Council prior to sending invoices to them to recover any process costs.

# MEMORANDUM OF UNDERSTANDING

Between

Bay of Plenty Regional Council  
Hawke's Bay Regional Council  
Manawatu-Wanganui Regional Council  
Northland Regional Council  
Taranaki Regional Council  
Wellington Regional Council

And

Waikato Regional Council

**In the matter of the Transfer of Building Act 2004  
Regional Authority Functions in relation to Dams**

**PARTIES:**

**Bay of Plenty Regional Council, Hawke's Bay Regional Council, Manawatu-Wanganui Regional Council, Northland Regional Council, Taranaki Regional Council and Wellington Regional Council ('Transferring Regional Councils')**

and

**Waikato Regional Council ('WRC')**

**BACKGROUND:**

- A. The parties have agreed to work together to achieve an efficient and cost-effective process for undertaking Regional Authority functions that are required under the Building Act 2004 in relation to dams and the Transferring Regional Councils have all agreed to sign an individual Deed (Deed of Transfer of Building Act Functions) with WRC to this effect.
- B. Each of the Transferring Regional Councils have agreed to transfer their relevant Building Consent Authority functions and some of their non-Building Consent Authority functions (as detailed in the Deeds) in relation to dams to WRC as per the individual Deeds.
- C. The parties agree that this transfer of functions in relation to dams is desirable on the grounds of efficiency, technical and special capability and expertise.
- D. The parties have agreed to enter into this Memorandum of Understanding to foster the development of a positive, effective working relationship between the Transferring Regional Councils and WRC in relation to the transfer of the relevant Building Act 2004 Regional Authority functions.
- E. WRC shall be bound by the terms of this Memorandum of Understanding as of the 30<sup>th</sup> June 2008. Each of the Transferring Regional Councils shall be bound by the terms of this Memorandum of Understanding on the effective date of their respective Deed of Transfer of Building Act Functions.

## **AGREEMENT:**

### **Scope of Memorandum**

1. This Memorandum is limited to the Regional Authority Building Consent Authority functions as specified in the Building Act 2004, including any amendments or any enactment made in substitution for the Building Act 2004, in relation to dams and the Regional Authority non-Building Consent Authority functions as are detailed in Schedule 1 of the Deeds.

### **Principles**

2. The parties agree that the following principles will guide their relationship:
  - (i) The parties will co-operate in a fair, transparent and honest way at all times.
  - (ii) The parties commit to establishing an interactive and positive relationship.
  - (iii) The parties will provide sound advice and information wherever possible to assist the other parties.
  - (iv) The parties will work together in good faith to achieve the purpose of this Memorandum.
  - (v) The parties will endeavour to work together to achieve an integrated approach to the functions contained in the Building Act 2004 and the Resource Management Act 1991 for effective resource management.
  - (vi) The parties will endeavour to recognise and take into account legal rights and obligations of the other parties.

### **Purpose of Transfer**

3. The parties agree that the purpose of the transfer of the Building Act 2004 Regional Authority functions, as detailed in Schedule 1 of the Deeds, to WRC are the following:
  - (i) Increased efficiency for all the parties: The transfer results in only one accreditation cost and one system which all parties will contribute towards, lowering costs for individual parties and increasing overall efficiency of performing Building Act 2004 functions in relation to dams.

- (ii) Reduced risk to individual parties: The transfer results in one efficient system which will be able to focus all of the technical and special expertise in relation to dams which will lessen the risk to all parties.
- (iii) Increased effectiveness in performing functions: Having focussed specialised technical expertise in relation to dams will result in Building Act 2004 functions in relation to dams being performed more effectively.

### **Working Group**

- 4. The parties shall each nominate a representative to represent them on a Working Group whose function is to review the Deeds and this Memorandum and any other documents in relation to the transfer of these Building Act 2004 functions and set and review annual budgets.
- 5. The Working Group intend to meet at least twice a year at the following times:
  - (i) The end of November to set an annual budget for the following year.
  - (ii) The end of July to review the previous year's costs.

### **Costs**

- 6. WRC will endeavour to keep costs to the Transferring Regional Councils to the agreed budget and to a minimum wherever possible.
- 7. Wherever appropriate WRC will endeavour to use the most cost effective measures for both the Transferring Regional Councils and applicants when processing any application and dealing with any complaint.

### **Records**

- 8. WRC shall retain all records involved in undertaking the functions, duties and powers relating to the Deeds for the life of each respective dam for as long as WRC continues to undertake the functions, duties and powers relating to the Deed for the region in which the dam exists.
- 9. WRC shall forward copies of specific information involved in undertaking the functions, duties and powers relating to the Deeds, where requested by a Transferring Regional Council, to that Regional Council as soon as practicable after receiving the request.

## **Communication**

10. The parties shall endeavour to maintain open and effective communication between the parties at all times. Each Transferring Regional Council shall inform WRC as soon as practicable of any information or action that it becomes aware of that may have an impact on WRC. WRC shall inform the appropriate Transferring Regional Council/s of any information or action that it becomes aware of that may have an impact on that Transferring Regional Council.
11. WRC shall be the point of communication with all media sources in regard to any information requests regarding the functions, duties and powers relating to the Deeds. WRC shall engage with the relevant Transferring Regional Council/s where appropriate prior to releasing any information related to the functions, duties and powers within the Deeds.

## **Complaints/Queries**

12. Transferring Regional Councils shall respond to all complaints/queries they receive that are of a general nature. Where any complaint/query received is in regard to a specific function, duty or power that is or should be undertaken by WRC (in accordance with Schedule 1 of the Deeds) or it is otherwise considered appropriate by a Transferring Regional Council, it should be forwarded directly to WRC. WRC shall respond, in accordance with its procedures, to all complaints/queries they receive.
13. WRC will keep a record of all relevant complaints and queries that WRC receive for a minimum of 10 years from the date that the complaint/query was received.
14. WRC will include in the six-monthly report a summary of complaints that WRC has received over that six month period.

## **Future Accreditations**

15. Where appropriate WRC will endeavour to forward all requested information and records of this transfer of the Building Act 2004 Regional Authority functions relevant to dams to any other Regional Council which becomes accredited as a Building Consent Authority where it would further increase efficiency, technical and special capability and expertise.

## **Variation**

16. The parties agree that this Memorandum can only be varied or modified in writing signed by all of the parties.

**Disputes**

17. If any dispute arises between the parties in connection with this Memorandum, the parties shall, without prejudice to any other rights they may have under this Memorandum, attempt to resolve the dispute by negotiation or other informal dispute resolution techniques agreed by the parties.

**Term and Termination**

18. This Memorandum will continue for the lifespan of any of the Deeds (notwithstanding that individual Deeds may be terminated).

19. Upon any of the Transferring Regional Councils terminating their Deed with WRC it will automatically terminate them from this Memorandum.

**Signed on behalf of:**

**Bay of Plenty Regional Council**

By: ..... Signature: .....  
(Full Name)

Position: ..... Date: .....

**Hawkes Bay Regional Council**

By: ..... Signature: .....  
(Full Name)

Position: ..... Date: .....

**Manawatu-Wanganui Regional Council**

By: *Michael M. Cairns* ..... Signature:  .....  
(Full Name)

Position: *Cindy Ellis* ..... Date: *30-6-08* .....

**Northland Regional Council**

By: ..... Signature: .....  
(Full Name)

Position: ..... Date: .....

**Taranaki Regional Council**

By: ..... Signature: .....  
(Full Name)

Position: ..... Date: .....

**Wellington Regional Council**

By: *David John Benham* ..... Signature: *[Handwritten Signature]* .....  
(Full Name)

Position: *Chief Executive* ..... Date: *27 June 2008* .....

**Waikato Regional Council**

By: ..... Signature: .....  
(Full Name)

Position: ..... Date: .....

**ITEM SEVEN**

24 July 2008

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**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**An introduction to nitrification inhibitors**

**Purpose**

1. The purpose of this memorandum is to advise members that Dr Ants Roberts of Ravensdown Fertiliser Company will give a presentation at today's meeting, discussing nitrification inhibitors and their potential place in nutrient budgeting, water and soil quality environmental management, and the reduction of greenhouse gas emissions. A company leaflet is attached to this memorandum for the background information it provides.
2. While Dr Roberts represents one of three companies with competing products, his presentation will be generic in nature and does not represent an endorsement by this Council of any particular product or provider.

**Background**

3. Nitrogen is vital for pasture growth. However, animals do not need the same proportion of nitrogen to energy in their diet, as is the case for vegetation (pastoral grasses, maize etc). The end result is that animals excrete a high proportion of the nitrogen they consume, as manure and urine onto pasture. Facing the expectation of ever-increasing production, farmers are under pressure to increase grass growth as one means to obtain more milk and meat. This in turn leads to further nitrogen loss back into the environment.
4. Nitrogen discharged into the environment, whether as animal wastes or as nitrogenous fertiliser (e.g. urea, ammonium sulphate, ammonium nitrate, or di-ammonium phosphate, or chicken litter) is typically in the chemical forms urea, ammonium, or nitrate. Urea and ammonia are the more readily available to plants; nitrate is the more mobile in soil and water. If not retained within the root zone and utilised for plant growth, nitrogen is lost through microbial transformation to nitrate and potentially subsequent movement down into groundwater. Under reducing conditions, and especially in the presence of iron and manganese, nitrate may alternatively be reduced back to other water-soluble and gaseous forms.
5. The nitrogen cycle within soil and groundwater systems involves a series of transformations, during which the nitrogen may be present (and escape as) nitrous oxide (an extremely potent greenhouse gas contributor), nitrogen gas (from which urea is synthesized), or nitrite/nitrate within groundwater and subsequently surface water

(potentially contributing to adverse effects upon in-stream ecosystems and/or rendering water unacceptable for drinking water purposes).

6. The use of urea and other nitrogenous fertilisers has risen very sharply in Taranaki- e.g. in 1981 2700 tonnes of nitrogenous fertiliser were applied in the region, while in 2004, 36,400 tonnes were applied (figure for urea and DAP only).
7. With economic and environmental factors increasingly focusing the spotlight onto careful use of nitrogen fertiliser, fertiliser companies and agricultural research organisations have invested significantly in technologies to minimise the potential adverse effects of their use and to gain the maximum benefit of their application. The term 'nitrification inhibitors' refers to a group of chemicals that are intended to reduce the conversion of nitrogen applied to pasture (whether via animal waste or fertiliser) to forms that are not as readily available to plants, as other forms, hence maximising its availability to enhance pasture productivity and reducing its loss. The benefits are better utilisation (hence lower application rates and costs for the same productivity) and lower losses into the environment (less environmental damage).

## **Discussion**

8. There are a number of products now available on the market, and others under development. Each is slightly different, with corresponding advantages or disadvantages by comparison with competitors e.g. works on a different stage of the nitrogen cycle, is only available as a coating on fertiliser or can be spread independently, liquid vs granular form, etc.
9. While some remarkable gains in productivity have been found in trials, these are in fact highly specific to pasture type, soil, and climate. The beneficial action can be short-lived. Because the products disrupt microbial activity, they may also disrupt other, non-target components of the ecosystem in as-yet unrecognised ways.
10. There are a number of questions still to be resolved-such as how best to get benefits year-round instead of only during cold conditions, the potential adverse effects upon soil biota (within target areas) and potential effects upon the wider receiving environment after run-off or percolation (e.g. stream biota); how to address the much greater proportion of nitrogen discharged as animal wastes instead of as fertiliser; the possibility of incorporation in effluent ponds prior to land application; accurate determination of their efficacy under all combinations of soil, pasture management, animal husbandry, and climate so that misleading claims are not made nor misplaced reliance invested; and the best methods of application (e.g. spread as fertiliser coating vs pasture spray or slow-release granular vs bolus ingested by animal).
11. Because nitrification inhibitors are being hailed as a key component of solutions to issues related to profitability, water quality, pastoral productivity, and greenhouse gas emissions from agriculture, it is important for this Council and the regional community to understand their strengths and their limitations.

## **Recommendation**

THAT the Taranaki Regional Council:

1. receives the presentation by Dr Ants Roberts on the current state of nitrification inhibitors

GK Bedford  
**Director-Environment Quality**

Approved:

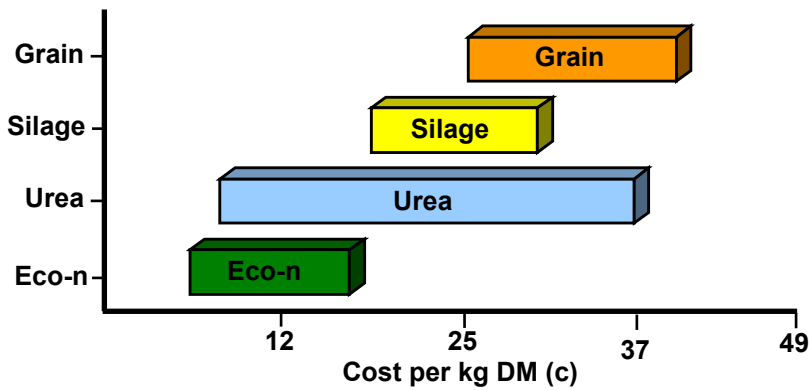
B G Chamberlain  
**Chief Executive**

# ECO-N

Eco-n significantly increases pasture production by retaining nitrogen from cow urine in the soil, in the plant available form on dairy farms. Eco-n also reduces nitrate leaching and greenhouse gas emissions (nitrous oxide).

## The Cheapest Form Of Additional Feed

Figure 1. Cost of Feed Graph



Eco-n provides the cheapest form of feed compared to urea, silage and grain, while also reducing environmental losses of nitrogen from grazed pasture.

For maximum results apply in May and again in July-August. Where application in May has not occurred / or on winter grazing blocks apply a single application post grazing in winter.

Actual cost of feed produced will be influenced by the ability of pasture to respond to additional nitrogen. (Annual responses to eco-n pictured range from 6-20%, while responses to urea range from 5:1 to 25:1). Prices correct at time of printing.

## How Eco-n Works

Eco-n inhibits the many millions of individual nitrosomonas bacteria that convert ammonium to nitrate in the soil. By keeping nitrogen in the ammonium form it is both held in the soil and available for pasture growth, instead of being leached out of the soil (and taking nutrients such as calcium, potassium and magnesium).

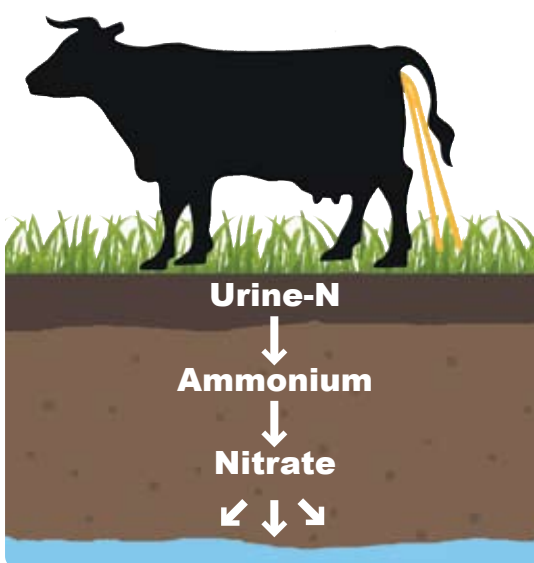
Additional feed from eco-n occurs when actively growing plants are nitrogen responsive; typically pasture results are seen as increased pasture production from July-August through till late spring, much like drip-feeding additional nitrogen to the plants.

## Did You Know?

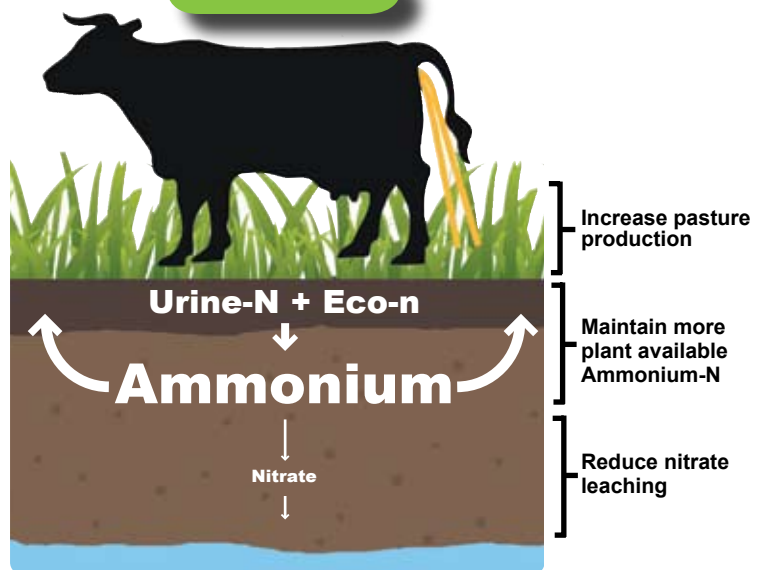
**A single cow urine patch deposits the equivalent of 1000kg of nitrogen per hectare...**

**Use eco-n to convert that nitrogen into extra feed!**

## N Conversion in Soil



## N Conversion in Soil with eco-n



- Reduce nitrate leaching by up to **60%**
- Reduce nitrous oxide emissions by up to **70%**
- Increase pasture production by up to **20%**

Varies with soil, climate and farm system

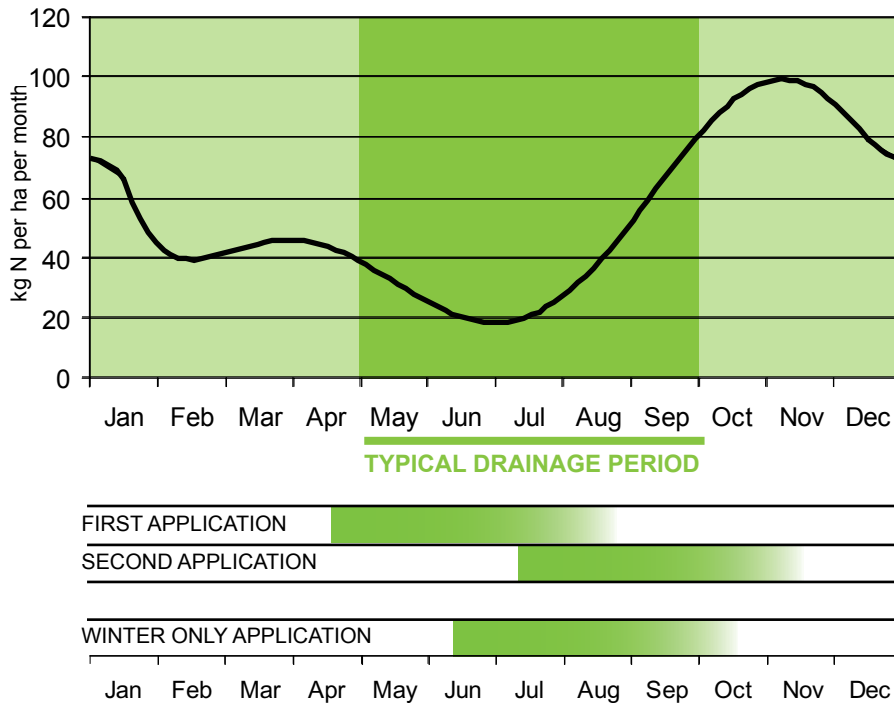
**Ravensdown**  
**eco-n**



## Seasonal Drainage & Nitrogen Uptake

Most nitrogen losses occur over winter when plant uptake of nitrogen is low and soils are draining. As eco-n is broken down in the soil by other bacteria over time, two applications are required to minimise losses over the entire drainage period (and retain this nitrogen for spring pasture production). The breakdown of eco-n is temperature dependent, with faster breakdown in warm temperatures. If soil temperatures are consistently greater than 13°C during the first application, ensure the second application occurs within 3 months of the first application.

**Figure 2. Typical Plant Uptake of Nitrogen Throughout The Year**



The first application in May covers the majority of the winter drainage period. A repeat application in July-August continues the effectiveness of eco-n in the soil for the remainder of the drainage period. For winter runoff blocks that are not grazed in April - May or areas that did not receive eco-n in May, a single application of eco-n following grazing during the winter will be effective for the remainder of the drainage period.

Urine-N is initially converted into ammonium and then converted from ammonium to nitrate. Therefore ensure eco-n is applied within seven days following grazing to capture recently deposited urine-N, before this is converted into nitrate-N. Once your order is placed your eco-n applicator will visit weekly to apply eco-n to all recently grazed paddocks.

## Eco-n & Strategic Nitrogen Management

Increasing pasture production with eco-n provides an opportunity to reduce nitrogen rates while maintaining similar annual pasture production, or increase total pasture production by maintaining current nitrogen inputs.

Eco-n provides a more gradual response than nitrogen fertiliser, talk to your local Field Officer to plan the most appropriate fertiliser strategy to meet your production requirements.

## Application Of Eco-n

For maximum results, ensure eco-n is applied within 7 days following grazing. Eco-n is sprayed directly onto soil by approved applicators to ensure maximum coverage is achieved, for the same reasons we spray agrochemicals onto pasture.

Aerial application is available in most areas if required. A surcharge may apply for aerial application or co-application with other products such as agrochemicals.



**GROW  
SPRING FEED  
1/2 COST  
OF UREA**  
On dairy farms....

**PLACE YOUR ORDER TODAY**

**Call the Ravensdown Customer Centre today on 0800 100 123 to place an order or talk to your local Field Officer. Don't miss out on growing dramatically more spring feed this season!**



**ITEM EIGHT**

24 July 2008

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**Memorandum to  
Chairperson and Members  
Policy and Planning Committee**

**Presentation – New Zealand Groundspread Fertilisers Association  
Conference**

**Purpose**

1. To provide, for Members' information, an address entitled '*Water Quality Management and the need for Good Practice – a Taranaki view*' presented by Chief Executive Basil Chamberlain at the New Zealand Groundspread Fertilisers Association Conference held in New Plymouth on 7 July 2008.
2. The paper includes an assessment of recent research by Lincoln based scientists on groundwater nitrate levels in the Waikato, and the use of nitrate models such as OVERSEER. The research raises the issue that the models, used for resource management purposes in parts of New Zealand may not be accurately predicting nitrogen losses to groundwater and waterways.

**Recommendation**

THAT the Taranaki Regional Council:

1. receives this memorandum.

A D McLay  
Director—Resource Management

Approved:

B G Chamberlain  
Chief Executive

# **Water Quality Management and the Need for Good Practice— a Taranaki view**

## **New Zealand Groundspread Fertilisers Association Conference**

**Quality Hotel Plymouth  
New Plymouth, 7 July 2008**

**Basil Chamberlain  
Chief Executive, Taranaki Regional Council**

I want to commence by acknowledging the efforts made by your Association and many of its members in recent years, to improve the practice of fertilizer application in New Zealand. More efficient and effective fertilizer application has undoubtedly been driven by improved technology, higher fertilizer prices, and a generally increased farmer focus on input investment returns. However, accepting all of those types of change drivers, it still needs people to take a leadership role and take things forward. Congratulations to those amongst your group who have been those leaders.

Although economic and technological influences have been significant in bringing about improvements in the methods of fertilizer spreading, improvements have also been important from an environmental perspective. It is from this environmental perspective that I wish to briefly address you today and in particular, I want to talk about the water management scene, both nationally and locally in Taranaki.

As little as twenty maybe thirty years ago, nobody I knew would have thought of fertilizer as a pollutant or a water contaminant. Rather 'Super' was always thought as a rather super material. Like salt being essential in cooking a tasty leg of lamb, so was fertilizer to our primary production sector and the cooking of our economic growth. Seeing a 4 x 4 bulky or a top-dressing Cessna doing its stuff in steep and difficult country was part of our positive cultural image. It was an iconic symbol of New Zealand. We put it on our stamps and on the cover of pr material.

While that image remains and the importance of fertilizer to our country is at least as significant as ever, it has also changed. Few things in this world are all upside and as more New Zealanders have become informed and concerned about environmental issues and the potential primary and secondary adverse effects from fertilizers on water quality in particular, fertilizer no longer holds its super position in the national psyche for more and more people. In fact for many, I would somewhat regrettably suggest that it is now seen essentially as a pollutant in the first instance – just look how often it is portrayed in that role in our school curricula, magazines, newspapers and so-on. As our urban and rural communities continue to separate and the urban to rural ratio continues to multiply, we might expect this perception trend to continue.

As with many environmental issues, people form views that are widely varying and often seemingly disconnected from scientific knowledge. At times they may also seem to be promoting a very narrowly focused perspective and lack what many would see as a need for

overall context or a balanced approach – ‘common sense’ if you like, to be taken into account.

The processes by which we make environmental management decisions in New Zealand are complex, challenging and adversarial, in common with most OECD countries. When resource allocation decisions are on the table and the stakes are high, we must expect to be presented with some very partial views of what’s right and wrong, what can and can’t be done, and what should and shouldn’t happen – all of course claiming the ‘God is on my side’, public interest high ground.

At its core, resource management law is about weighing different values. There are no axiomatically right or wrong answers. Disciplines such as science and economics do not provide complete answers as some scientists and economists might imply; they simply inform decision makers. Rather, decisions gain integrity because they move through a process of public participation and are subject to the checks and balances of our pluralist, democratic processes and systems. One outcome is generally certain and that is, there will be winners and losers. No one should be surprised if the losers look to criticise the winners, the processes (the RMA), or the referees (Judiciary, councils, Government), or all three.

At present and substantially driven by the issue of nutrient contamination of water, large or small as you may perceive it to be, we are on the cusp of major changes being instituted in how we manage water resources in New Zealand. In my view these changes are as profound and significant as for example, the introduction of the water rights regime with the enactment of the Water and Soil Conservation Act in 1967, or the introduction of a sustainable management purpose and principles into environmental decision making with the Resource Management Act in 1991.

At the heart of these changes is a shift from essentially non-regulatory approaches for controlling the impacts of land uses on water, to regulatory methods. Common in Europe, they are relatively new to us here.

The development of such regulatory planning instruments is a very busy scene at present. At the regional level there are significant ground breaking Environment Court hearings underway in the Waikato, where land use rules to control water quality, the viability of nutrient markets and the water quality of an iconic lake are all being debated (the Taupo variations to Environment Waikato’s regional plan). Our neighbours to the south, are proposing similar but different approaches for the Manawatu in their draft ‘One Plan’ and there are similar initiatives being considered in other regions.

At the national level there is also a lot of activity, as the Government’s Sustainable Water Programme of Action rolls out more products over the next few months. These will include three Resource Management Act regulatory instruments, being two national environmental standards and a national policy statement on freshwater. The national policy statement in particular, may be expected to strongly promote an ‘upping the regulatory game’ to maintain or enhance freshwater quality into the future. The impacts on water from intensification of land use, such as from conversions to dairy farming, may be expected to be a point of focus.

The concept of integrated land and water management is not new to New Zealand, nor is the concept of integrated catchment management. New Zealand has also previously put in

place regulatory responses to integrate land use and land use impacts with water management issues.

Pursuant to the Soil Conservation and Rivers Control Act 1941 (and in particular the 1959 amendment), Notices to Safeguard Against Erosion were issued for parts of our steeper hill-country, in generally upper catchment areas, the main aim being to reduce flood plain risk and damage from aggradation in floodways of the lower catchment areas. However, these Notices were sparingly applied and lightly enforced. They also applied to a comparatively small number of land owners and placed only small economic encumbrances on the properties concerned.

There have been other instances of land use restricting rules being imposed for water management purposes, but as with erosion notices these were either of a very specific nature and impact, an example being controls on forestry logging practices, or they applied in urban as opposed to rural settings, an example being subdivision development controls – all pretty low scale land use regulation compared to what is being progressed now.

The difference now is that land use rules for the purposes of water quality management are being proposed for our more intensively used agricultural land for example, quite large areas of dairy or potential dairy farming country. Regulating land use in this type of country has major potential economic consequences as those proposing the rules are well aware. It is such an extremely challenging proposition that it will almost certainly, despite best endeavours, result in some unforeseen and perverse outcomes.

To elucidate on just some of the challenges involved in the very difficult task of getting it right, let's consider, for example, the use and role of science in providing information that is fully, or close to fully reliable as it should be for the task of cost effective rule making.

All of us would accept that rules should in the first instance be based on good science. We would also acknowledge that New Zealand's agricultural/earth scientists are as good as anywhere. It has always been one of our science strengths and for example, I read recently a newly published OECD report on the environmental performance of agriculture in OECD countries since 1990 and the work of New Zealand scientists was notably referenced.

That noted, two questions sit with me. First, does our policy making environment, that is, the world of policy makers, connect as well as it should with scientific information and scientists to ensure correct interpretations are being made to inform policy. I would suggest the answer is probably not. One of the first rules of war is to know your enemy and one of the first rules of combat is to clearly identify your target before engagement. Nutrients per se and there are several of them, are not the actual enemy; they are not the precise target. It is important for effective and cost effective rule making to be much more specific. It is actually the impact of certain types of nutrient acting in certain conditions within specific soil and water environments that are the problem and obviously that varies widely.

I was interested to recently note a very useful combined AgResearch/NIWA paper delivered at a Fertiliser Conference at Massey in February. Using data from 1100 regional council river and lake sites from around New Zealand, the scientists were examining whether they were N or P limited and their susceptibility to periphyton proliferation. The Executive Summary read as follows:

The DIN:DRP ratio indicated that P-limitation was the most frequent scenario in New Zealand (76% of sites P-limited, 12% N-limited and 12% co-limited). The DIN:DRP ratios were then combined with median concentrations to predict periphyton densities in a year .... This indicated that 49 sites exceeded the periphyton guideline for protecting benthic biodiversity (50 mg chlorophyll-a m<sup>-2</sup>). ....The predominance of P-limitation of New Zealand rivers and streams suggests that a cost efficient approach may be to focus on mitigating P losses more than N losses, but this should only be done in the most extremely P-limited cases

Some good signs here of scientists thinking strategically, not about the combined N and P war *per se*, but concentrating more precisely on the actual enemy being the effects of these two nutrients working in tandem in certain water conditions and how to be effective in exposing and then attacking the “Achilles’heel” which in most cases is P.

In Taranaki we have been measuring modest increases in N and P levels in our streams, albeit coming off reasonably low levels. Our data also suggest that P levels have flattened out over roughly the last five years, which makes sense given the reductions in phosphatic fertiliser application that have occurred. This is important for us because our streams, like most in New Zealand, tend to be P as opposed to N limited. So our P levels are of most acute concern. As per the scientists’ advice, mitigating P would be the cost effective place for us to be concentrating. Developing rules based on nitrogen balances/cap and trade systems for example, would not seem to be a terribly sensible first off regulatory response. It would not be a very smart first point of attack.

We acknowledge in Taranaki that this P ‘Achilles heel’ is not an appropriate focus of mitigation effort throughout New Zealand and especially for some lakes like Taupo where the limiting nutrient is more likely to be N. and long nutrient travel lag times and more complexity are often present. More precaution in respect of these resources that have world class quality, is also not an unreasonable approach.

However, when one so often hears of the war on nutrients with an almost exclusive emphasis on N and for that also to be linked in a clumsy way to the growth in N fertiliser use in recent years, I really wonder how well our policy makers are connecting with science to precisely and efficiently target in a cost effective way the real enemy. In our design of regulatory instruments, are we using smart bombs, or World War II Bomber Harris carpet bombing techniques, which will have doubtful results and probably cause enormous collateral damage?

The second question I have in respect of the role of science is that I wonder how much we actually know or don’t know about how these very complex soil/water chemical and biological systems and processes actually work. It is the old cliché that we don’t know what we don’t know. One of my favourite acerbic commentators was the late internationally renowned Harvard economist, JK Galbraith. He once observed that:  
*‘economists make predictions not because they know but because they are asked’.*

Although undoubtedly true of economists and also undoubtedly over critical if applied to earnest water quality scientists, it is my clear view that in general, water quality science and indices used as guides to policy and actions are fine but their use in regulatory instruments with force of law should be approached with great caution because the levels of knowledge, certainty and confidence required, with consequent failure risks are much greater.

Let me give you perhaps an example of this. New Zealand scientists have to my observation been involved in internationally leading work in the development of nutrient budget or management plan tools to operate at the farm level. These nutrient management plans like OVERSEER are reputedly getting pretty accurate at determining appropriate application rates to optimise fertiliser use and reduce waste from excessive use. However there is an assumption made by some, that what OVERSEER predicts as excessive or surplus, will leach to groundwater systems and/or eventually to streams. This notion, that all predicted surpluses beyond the root zones will end as nutrient water pollution, seems, with some qualification, to be at the heart of proposals for nutrient cap and trade systems being developed into regulatory instruments. However, it seems to me that this assumption may be being made on a two plus two equals six basis. Evidence is emerging that it may be well off the mark, or certainly not applicable at all locations.

A group of Lincoln based scientists recently published a paper in the New Zealand Journal of Hydrology on the results of measuring actual groundwater nitrate levels from 34 shallow wells in the Waikato. They found much lower levels than might have been expected, assuming all surpluses from OVERSEER modelling translated into groundwater contamination. They noted that:

*'estimates of nitrate-N leaching from the root zone of the pasture as provided by nutrient budget models are thus not sufficient to evaluate the effects of leaching losses on ground and surface waters in catchments .... where nitrate reduction can occur below the root zone.'*

Taranaki soils are highly likely, as are many in New Zealand, to provide conditions for nitrate reduction to occur as outlined by our Lincoln friends. In fact, our measured and seemingly surprising low nitrate ground water levels in Taranaki may be explained in part by these findings. So the simple question is, how credible would we be and at what cost to economic and sustainable development opportunities in our region, if we had or were to adopt OVERSEER as the basis of land use rules to control leaching to water here.

Now maybe in reality it doesn't matter if OVERSEER is used. Arguably we shouldn't be putting on more fertiliser than is theoretically needed, with surpluses either being 'treated' in the soil or leaching to contaminate water. But strictly speaking the tool may be a very poor predictor of likely actual water contamination and if that is the issue that the rule is designed to address, then its use is to the detriment of the cost efficiency of the rule. I simply raise this example to illustrate that despite best available and probably world leading science, we perhaps simply don't know enough to make a really tight rule that we can be fully, or even reasonably confident in.

As an aside, I also note that OVERSEER is also being discussed as a basis to 'measure' and consequently pay for nitrous oxide, greenhouse gas emissions from farms, as part of a Kyoto compliant emissions trading scheme. The same issues of potential major overstatement exist to the detriment of farmers and the New Zealand economy.

The above cases present but two examples of the science based challenges I see in moving to a full-on regulatory environment to control land use in pursuit of water quality objectives. There are many others and then also other challenges that exist for all regulatory instruments – inevitable loopholes, legal challenges, monitoring and enforceability issues, and so-on, consistent with 'the best laid plans of mice and men'.

In stating that, I do not wish to be seen to be directly or indirectly making criticism of those councils who are moving in this direction. They make their own decisions for their own

specific circumstances and due process will be applied to tuning and confirming their decisions. I also acknowledge the need for appropriate precaution and the reality that you can't wait forever to be fully informed to make decisions with very clear confidence of the results. The proverbial 'he who hesitates is lost', or 'stitch in time saves nine' are relevant advice.

I have little doubt that as seriously imperfect as they inevitably will be, land use rules to protect water quality will form an appropriate role in specific circumstances in some parts of New Zealand. However, we need to be really careful and discerning about where and when they might add value as an investment in not only water management, but within the total context of our communities' social, economic, cultural, and environmental goals. We must all especially guard against one size fits all, national regulatory responses. They will almost certainly result in some very unnecessary, clumsy and costly behaviour with uncertain outcomes over and above the normal risks associated with any form of regulatory intervention.

I am firmly of the view, that for most places in New Zealand, barring the obvious, the adoption of best and continuous improvement will get us most of the way along the sustainable agriculture journey. Recently publicised results from the intensively farmed, very high producing dairy farm at Lincoln University support this view. There, they have deployed a wide range of best practices, including Spreadmark accredited fertilizer application. We can actually do this stuff very well. Responsive and adaptive agricultural related practices are one of New Zealand's few truly strong business suits.

And so to take me back to my opening comments, I wish to congratulate your Association for its efforts to develop best practice in the application of ground-spread fertilisers. They are but part of the contribution that needs to be made towards maximising the use of non-regulatory methods to achieve water quality objectives, before possibly have to turn to regulatory approaches to address the issue of pasture runoff contamination of water as land use continues to intensify.

In Taranaki, I am pleased to report that I believe we are some way off from any major comprehensive land use controlling rules to promote water quality objectives. That is in part due to the fact that we have worked very hard on cleaning up the region's point source waste discharges including all dairy farm dairy sheds, industries and municipal wastes. Regulatory methods have been largely used here because they were appropriate for dealing with point source wastes. Compliance monitoring and enforcement of point source wastes for example, are much more straight forward and Taranaki Regional Council has applied these methods at least as assertively as anywhere in New Zealand.

Until very recently, the TRC annually issued more abatement notices, infringement notices and prosecutions than pretty near the rest of New Zealand put together. This was not a source of pride. Enforcement is actually damned hard and at times stressful work. But the Council believes very firmly in two principles about rules and regulatory approaches. The first is to have as few as are necessary. The second is to monitor and enforce compliance when you do impose rules. This seems self evident to us, but equally evident is that New Zealand like many OECD countries, seems littered with rules from regulatory agencies that in many cases are probably unnecessary or seemingly ineffective, but frankly, who would know or be really able to judge, because compliance is also poorly monitored and enforced, in many cases because it can't be.

We have also worked very hard with farmers on non-regulatory methods such as riparian fencing and planting. So far, our farmers are taking up this voluntary opportunity, but for many the hard yards are ahead. For Taranaki as a whole, riparian fencing and planting is no trivial task. We have a dense drainage network with thousands of kilometres involved. The Council supports farmers by providing, free of charge, property specific riparian plans designed in conjunction with the farmer. Most farmers now have these plans. We also bulk order suitable riparian plants from all over the North Island to provide to plan holders at bulk discount prices. Things are moving in a very progressive and serious manner. We will order around 300,000 plants for next year and as a region can already boast a landscape altering, water management programme that is significant by world standards.

That noted, in terms of our water quality we seem to be more than holding our own, despite greater pressures such as a doubling of cow numbers in the past twenty years.

There are broadly two types of indicator that we systematically measure to inform us about the state of our water quality. First are the physicochemical indicators such as temperature, turbidity, nutrients (N&P), faecal coliform/bacteria levels and dissolved oxygen levels—parameters which have traditionally formed the basis of water quality monitoring in New Zealand and elsewhere.

Secondly, we measure freshwater invertebrate populations with techniques that were largely pioneered for New Zealand in Taranaki. I believe freshwater animals are in many respects a better overall indicator because the technique is much less susceptible to the data 'noise' issues associated with the collecting of occasional physicochemical samples. Invertebrates live in streams and thus reflect the constant changes that occur over time. Better quality water attracts more diverse and pollution sensitive residents. Indices have been developed to allow ranking comparisons between and at sites over time.

In respect of our physicochemical data, we see a little bit of a mixed bag, not atypical of New Zealand. We don't meet all of the use standards, the standout failure being stock water standards. But then we never have met this standard and even if we all left New Zealand with all of our cows tomorrow we still wouldn't. Few streams in the world meet this test and almost half of the rivers in New Zealand's national parks and reserves don't. Our wonderful wildlife and birds in particular, many being as loose as the proverbial, are significant culprits. This is one of those cases of needing to be careful of standards and their potential inappropriate application. By comparison, our water quality is high in relation to the rest of New Zealand, noting that New Zealand's numbers compare very favourably internationally.

We have seen some good positive trends, especially in reducing organics (BOD levels) and faecal coliform/bacteria levels. When I first started in this business, bugs were the big target for reduction, far more-so than nutrients and for good human and animal health related reasons. They remain, in my view, the main public water quality enemy and across New Zealand and especially in Taranaki, we have made great progress. This has come about not by fluke, but by hard work, mainly through regulatory approaches to cleaning up point source discharges. BERL have conservatively estimated that tens of millions in capex has been provided to produce this and related good water quality results in Taranaki, with ongoing operating costs of tens of millions per annum.

We have also seen a few negative trends, such as for nutrients. Our N and P levels are none-the-less coming off relatively low levels and over the last, roughly five years, it looks as if P levels have stabilised as earlier noted. But these trends are also, of course, the basis of our working with farmers to proactively invest in a major riparian fencing and planting programme that will treat stream banks equivalent to the length of the New Zealand coastline over the next decade.

Finally to the results that have frankly 'blown us away a bit'. What has been happening to our freshwater invertebrates? What are these indices telling us? Well, of the 51 sites we have been measuring for several years, we can identify with quite high statistical confidence that there has been no significant deterioration anywhere. Equally stunning, is that 16 sites show a definite improvement. These are great results and many people deserve a share of the credit. Not I might add the people who moan and snipe from the sidelines, but do little more than that. I am speaking of the people who engage in constructive actions, resource users and those in our community who have rolled up their sleeves and 'walked the talk' in the last couple of decades.

Thank you for your efforts in professionalising the business of ground-spreading fertiliser. Our Council looks forward to continuing to work with you positively into the future, as we all continue to work towards a common objective of the sustainable development of our land and water resources for the good of our communities. As land use continues to intensify, so too must our efforts to control any adverse effects intensify. Through improved practices, it is better for you and land users to be successful in doing that yourselves, than to be clumsily regulated by others.

Best wishes in your future efforts to keep yourselves and your farmer clients at the forefront of the international best practice.