

Document: 516500

8 October 2008

**Chairperson and Members
Policy and Planning Hearing Committee**

Notice of Hearing

Notice is hereby given that a Hearing of the **Policy and Planning Committee**, to hear submissions on the Draft Regional Policy Statement for Taranaki, will be held in the Taranaki Regional Council Chambers, 47 Cloten Road, Stratford on:

Thursday 16 October 2006 commencing at 1.00 pm

B G Chamberlain
Chief Executive

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

Agenda for the Hearing of the Policy and Planning Committee of the Taranaki Regional Council, to hear submissions on the Draft Regional Policy Statement for Taranaki, to be held in the Taranaki Regional Council Chambers, 47 Cloten Road, Stratford on Thursday 16 October 2006 commencing at 1.00pm.



Councillors		N W Walker M J Cloke P D Horton M A Irving M P Joyce	(Chairperson)
		D N MacLeod	(ex officio)
Representatives	Councillor	A Hickey	(South Taranaki District Council)
	Councillor	M Betts	(New Plymouth District Council)
	Councillor	J Rowe	(Stratford District Council)
	Mr	G Hight	(Federated Farmers of New Zealand)
In attendance	Messrs	R A Phillips A D McLay M J Nield G C Severinsen P Ledingham	(Director-Operations) (Director-Resource Management) (Director-Corporate Services) (Policy Manager) (Information Officer)
	Mrs	K van Gameren	(Committee Administrator)
Apologies	Councillor	M G Davey	
	Councillor	D L Lean	

Notification of Late Items

Hearing of Submissions	Welcome and introduction of Committee, Members and Submitters Approach to Hearing Order of Appearance Presentations by submitters Afternoon Tea break 3 – 3.15pm Presentations by submitters (continued) Conclusions
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Hearing of submissions

Proposed Regional Policy Statement for Taranaki

Hearing procedure

1. The Committee wishes the Hearing to be conducted in a relaxed manner and to avoid unnecessary formality.
2. We wish the Hearing to progress in an orderly fashion and to be fair to all concerned. We are also bound by the law not to permit any person other than the Chairperson or other Member of this Committee to question any party or witness. Cross-examination by parties is not permitted.
3. Submitters should attempt to limit their comments to those matters which are directly relevant to the subject of the submission and to do so in a concise manner in the minimum time necessary. This recommendation is not made to constrain in any way the nature of the submission which may be made but simply as an acknowledgement that parties have travelled some distance to appear at this Hearing and all parties should be granted a fair and proper opportunity to convey their views.
4. Hearing Committee Members will have received and read the Officer's report on the Proposed Regional Policy Statement for Taranaki. It will therefore, not be necessary for submitters to repeat the detail of the matters contained within the initial written submissions. Rather, submitters should concentrate on identifying for the Hearing Committee those matters which continue to be of concern.
5. The Hearing cannot be used as an opportunity for submitters to introduce additional or new points of concern. Comments must be confined to the matters raised in original submissions.
6. Submitters should explicitly reference the recommendations made by officers and indicate clearly the exact wording changes or other amendments which should be considered as a means of alleviating concerns and indicate any support for particular provisions of the Proposed Regional Policy Statement for Taranaki or particular recommendations as made by Council officers.
7. Committee Members may ask questions in order to further their understanding of the points raised either in the written or the oral submissions. However, this is not a Court of law and as already noted, cross-examination will not be permitted. The intention is that the Hearing be conducted in a relaxed and informative manner.
8. We now move on to the Order of Appearances and Presentations by submitters.

N Walker
Chairman
Policy and Planning Committee

Proposed Regional Policy Statement for Taranaki

Hearing of submissions

Submission & Page No.	Organisation/Individual	Represented by	
	<p>At the time of printing of this agenda, the following submitters have confirmed their attendance at the Hearing. Further submitters may have confirmed by the Hearing date.</p>		
12 (60)	Fish and Game New Zealand	Allen Stancliff	1.00 pm
35 (305)	TrustPower	Robert Schofield	1.15 pm
30 (245)	NZ Transport Agency	Alan Catchpole	1.30 pm
22 (185)	Department of Conservation	Julian Watts	1.45 pm
	<p><u>Tabled Items (attached)</u></p> <p>The following submitters have provided further written submissions to be considered by the Hearing Committee. Further tabled submissions may be provided by the Hearing date.</p> <p>Mighty River Power Limited</p> <p>Tegel Foods Limited</p> <p>Genesis Energy</p>		

File No: T25 01

9 October 2008

Chief Executive Taranaki Regional Council
Private Bag 713
Stratford 4352

Mighty River Power Limited
160 Peachgrove Road
Hamilton East
Hamilton 3216
PO Box 445
Hamilton 3240

Phone: +64 7 857 0199
Fax: +64 7 857 0192
www.mightyriverpower.co.nz

DDI: +64 7 857 0150
Direct Fax: +64 7 857 0177

Dear Sir

Hearing of Submissions for Proposed Regional Policy Statement for Taranaki

Thank you for the opportunity to be able to attend the hearing of submissions on the proposed Regional Policy Statement on 16 October 2008.

Mighty River Power **will not** be attending the hearing for the proposed Regional Policy Statement. However, please find **attached** our written submission for the hearing which we would like to be tabled at the hearing and its contents considered by the Hearings Committee.

Please contact the writer if you have any queries concerning the issues raised in our submissions.

Yours faithfully

Jo-Anne Munro
Environmental Advisor - Policy Planning

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Taranaki Regional Council's Proposed Regional Policy Statement for Taranaki

SUBMISSIONS ON BEHALF OF MIGHTY RIVER POWER

1 INTRODUCTION

- 1.1 Mighty River Power Limited ("Mighty River Power") is a State Owned Enterprise and is the fourth largest energy generator in New Zealand based on generation production.
- 1.2 Mighty River Power owns and/or manages a diverse and expanding portfolio of generation assets throughout the North Island. Our portfolio includes the Waikato Hydro System, geothermal interests at Mokai, Rotokawa, and Kawerau, the Southdown co-generation station in Auckland, Marsden Power Station Site, and an active landfill gas generation programme.
- 1.3 Mighty River Power sells electricity and gas to more than 350,000 customers through its retail business Mercury Energy. Mighty River Power's metering business Metrix provides meters and meter-reading services to residential and commercial customers across Auckland, and to other electricity retailers.
- 1.4 Mighty River Power is involved in exploring new wind, geothermal, thermal. Gas and hydro developments as part of the pursuit of a diverse energy generation portfolio. Currently, over 85% of Mighty River Power's electricity production is from renewable resources.
- 1.5 Mighty River Power made a number of further submissions to submissions lodged on the proposed Regional Policy Statement for Taranaki ("the RPS"). Our decisions on the recommendations affecting the further submissions lodged are contained in Table 1 attached to this submission.

- 1.6 Where Mighty River Power still has concerns as a result of Council's recommendations concerning amendments to the RPS, our submissions on these issues are outlined below.
- 1.7 Mighty River Power does not have any fundamental problem with the direction of the RPS. However, we want to ensure that the objectives, policies and methods contained in the RPS are consistent with the purpose and principles of the Resource Management Act 1991 ("the Act") and do not unfairly bias Mighty River Power's ability to carry out its key task of electricity generation.
- 1.8 Mighty River Power would like its submission to be tabled at the hearing for the proposed RPS and its contents considered by the Hearings Committee.

2 COASTAL ENVIRONMENT

- 2.1 Mighty River Power notes that the current version of the New Zealand Coastal Policy Statement appears to have heavily influenced the content of section 7 of the RPS which outlines the objectives, policies and methods for the coastal environment.
- 2.2 As Council is no doubt aware, the New Zealand Coastal Policy Statement is in the process of being reviewed, the submission period has closed and hearings on the submissions received are currently in progress. It is important that Council realises that the RPS may need to be amended to achieve consistency with the updated New Zealand Coastal Policy Statement after it becomes operative.

3 SECTION 9 – NATURAL FEATURES AND LANDSCAPES, HISTORIC HERITAGE AND AMENITY VALUE

- 3.1 Mighty River Power lodged further submissions to submissions made by Meridian Energy Limited ("Meridian") and TrustPower Limited ("TrustPower") in relation to the contents and scope of section 9 of the RPS.
- 3.2 Both Meridian and TrustPower's submissions requested, amongst other things, the deletion of Policy 2 in section 9.1 'Protecting our outstanding and important natural features and landscapes' of the RPS.
- 3.3 Meridian submitted, amongst other things, that section 9 (including Policy 2, section 9.1) sought to promote absolute protection of all natural features, landscapes and historic heritage from all development rather than just

inappropriate development. Meridian submitted that this was beyond the scope of Part II of the Act.¹

- 3.4 Council accepted Meridian and TrustPower's submissions in part and amended Policy 2 so that it reads as follows:

*"Recognition shall be given to the appropriate management of other natural areas, features or landscapes not covered by Policy 1 but still important of value to the region for one or more of the following reasons..."*² (Additions to Policy underlined).

- 3.5 Meridian considers that the proposed amendments to Policy 2 still do not address the concerns it raised in its original submission.³

- 3.6 TrustPower has accepted the recommendation of Council to amend the Policy rather than deleting it.⁴

- 3.7 Mighty River Power has the following concerns over the retention and amendment of Policy 2 in Section 9.1 of the RPS:

- (a) The amendments to Policy 2 have not removed the focus on protection for natural features and or landscapes that have not been classified and/or identified as outstanding.
- (b) Policy 2 is dealing with natural features and landscapes that are not captured under Policy 1 which specifically provides for the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. Policy 1, clause (d) includes specific reference to natural character.
- (c) The proposed amendments to the Policy introduce the element of protection to natural features and landscapes which are not required to be protected under section 6(b) of the Act.
- (d) The introduction of natural character into clause (d) of Policy 2 introduces a section 6(a) matter under the Act into a Policy which is otherwise dealing with amenity issues. This approach is not consistent with section 6 of the Act and may create confusion to the users of the RPS.

¹ Report on Submissions following pre-hearing consultation, September 2008, page 257.

² Ibid, page 259.

³ Ibid, page 257.

⁴ Ibid, page 336.

- 3.5 Section 6 of the Act outlines the matters of national importance which must be recognised and provided for. The subsections of section 6 mentioned in paragraph 3.4 above are set out below.

“6 Matters of national importance

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

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development...*”

- 3.8 Section 6(b) of the Act specifically refers to the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development. Policy 2 in section 9.1, as currently drafted, is overly restrictive and appears to seek the protection of all other natural features and landscapes not classified or identified as being outstanding.
- 3.9 As the RPS is an instrument to achieve the purpose and principles of the Act, it needs to be consistent with Part II of the Act as well as the provisions of the Act which deal with the development of regional policy statements.
- 3.10 Mighty River Power queries whether the RPS actually needs Policy 2 as the section it is located in is specifically focused on protecting outstanding and important natural features and landscapes. Policy 2 does not appear to be adding anything additional to section 9 of the RPS and is outside the scope of section 62 of the Act which requires regional policy statements to be focused on significant resource management issues for the region in question.
- 3.11 It is the opinion of Mighty River Power that if Council does believe Policy 2 is necessary for whatever reason and is to be included in section 9.1 of the RPS then care needs to be taken to ensure that the Policy is written in such a way as not to confuse the issues contained in section 6(a) and 6(b) of the Act and to ensure it is consistent with the requirements set down in respect to contents of regional policy statements contained in section 62 of the Act.

Recommendation

3.12 Mighty River Power recommends that Council undertake the following actions in respect of Policy 2, Section 9.1 of the RPS.

- (a) Delete Policy 2 from section 9.1 of the RPS as requested by Meridian and TrustPower in their original submissions to the RPS and supported by Mighty River Power in its further submissions to these.
- (b) If Council does not support the deletion of Policy 2 from section 9.1 then the policy needs to be amended to be consistent with the provisions of sections 6 and 62 of the Act.

J A M Munro
Environmental Advisor Policy Planning for Mighty River Power Limited

9 October 2008

TABLE 1

MIGHTY RIVER POWER'S POSITION ON THE RECOMMENDATIONS OF TARANAKI REGIONAL COUNCIL ON THE PROPOSED REGIONAL POLICY STATEMENT

Sub No/ Submitter	Plan Provision	Relief sought by Submitter	Further Submission	Council's Decision	Submitter's Decision	Mighty River Power's Decision
4	Transpower New Zealand					
	General Comments	Comments relating to the need for a national grid	Support	Declined	Accepted	Accepted. Amendments made elsewhere support MRP's request for recognition of the need for a national grid.
	Section 13 - Objective	Amend the objective to include the phrase <u>as far as possible</u> avoiding, remedying etc.	Support	Accepted in part	Accepted	Accepted
	Section 13 - Policies	Add five new policies.	Support in part	Accepted in part	Accepted	Accepted
8	Genesis Power Limited					
	Section 7	Recognition of the importance of Port Taranaki.	Support	Accepted	Accepted	Accepted
	Part B - RM Issues of significance	Add new objective/policy to provide for the use and development of resources to promote the purpose of RMA.	Support	Accepted	Accepted	Accepted
5	Crown Minerals Ministry of Economic Development					
	Part B – RM Issues of significance	Add a new section on minerals	Support	Accepted	Accepted.	Accepted
10	Winstone Aggregates					
	Section 9.1 para 2	Remove inference that all rural & coastal features of the ring plain are outstanding and require a Regional Plan to identify Outstanding Natural Landscapes & Features meeting the criteria of s6(b) of the RMA.	Support	Accepted in part	Accepted	Accepted
	Section 9 - Issue 2, Objective, Policy 2 etc	Amend to better reflect s7 RMA matters to which it relates.	Support	Accepted in part	Accepted	Accepted
13	Taranaki/Whanganui Conservation Board					
	Section 5 - Policy 2, Method 1	Amendment to delete reference to "or parts" of water bodies.	Oppose	Declined	Accepted	Accepted
19	Gasbridge Limited					
	Section 2.7.4	Amend to reflect the role and importance of Port Taranaki in the distribution network for energy.	Support	Accepted	Accepted	Accepted
	Section 7	Include reference to appropriate development where necessary and where adverse effects on the coastal marine	Support	Accepted	Accepted	Accepted

Sub No/ Submitter	Plan Provision	Relief sought by Submitter	Further Submission	Council's Decision	Submitter's Decision	Mighty River Power's Decision
		area can be mitigated.				
	Section 7.1	Amend to include objective and policies that provide for appropriate reclamations & structures, with consequential amplifications.	Support	Accepted	Accepted	Accepted
	Section 12	Amend to include objectives and policies related to the exploration, production, transmission and distribution of non-renewable energy.	Support	Accepted	Accepted	Accepted
20	Contact Energy Limited					
	Section 5.1 – Issue 1 & Objective 1	Amend to identify the management of non-consumptive uses of water as a regionally significant issue.	Support	Accepted.	Accepted	Accepted
	Section 5 -Policy 2	Amend Policy 2(a) to define what water bodies, or parts of, are of value for their natural character or in stream values.	Support	Declined	Accepted	Accepted
	Section 7 - Policies 1-4	Amend to include policy that provides for appropriate development in the Coastal Environment or the CMA.	Support	Accepted	Accepted	Accepted
	Section 12 – Issues	Amend to ensure that an adequate supply of energy is a significant issue for the region.	Support	Accepted	Accepted	Accepted
	Section 12 – Objective	Remove “renewable” from the Objective.	Support in part	Accepted in part	Accepted	Accepted. Recommendations supported as they provide clarity to the section.
	Section 13	Retain reference to national and regional benefits accruing from regionally significant infrastructure.	Support	Accepted	Accepted	Accepted
	Section 13 - Issues 1 & 2; Objective, Policies 1 & 2 & Methods 2, 5 & 6.	Include reference to infrastructure of national importance.	Support	Accepted	Accepted	Accepted
22	Department of Conservation					
	Section 5.1	Policy 4 be amended	Oppose	Declined	Accepted	Accepted
	Section 7 – General Comments	Relationship between the RPS and NZCPS be explained	Oppose	Accepted.	Accepted	Accepted. Inclusion of Objective 2 on p76 supported as recognises that some uses and development will be appropriate to be located on the coastal environment.
	Section 7 - General comments	Seeks clarification between identified areas of coastal significance and rest of CMA.	Oppose	Accepted	Accepted	Accepted. Identification of matters to be considered or have regard to when assessing whether a certain use or development is appropriate or

Sub No/ Submitter	Plan Provision	Relief sought by Submitter	Further Submission	Council's Decision	Submitter's Decision	Mighty River Power's Decision
						inappropriate in the coastal environment through the amendments to policies 2 & 3 on p77 of the RPS is supported.
28	Shell Todd Oil Services					
	Section 2.7.4	Amend to reflect the significance of the oil and gas industry to the Taranaki and NZ economy.	Support	Accepted	Accepted	Accepted. Reference should now be to 2.8.4 not 2.7.4.
29	Energy Efficiency and Conservation Authority					
	Section 5	Amend to explicitly refer to hydro-electricity generation and cross reference to Chapter 12 – Energy.	Support	Accepted	Accepted	Accepted
	Section 5.1 – Policy 2 (a)	Amend policy to make it consistent with the explanation with focus on water systems with <u>significant</u> value.	Support	Accepted	Accepted	Accepted
	Section 5.1 - Policy 5	Amend to recognise that hydro-electricity generation can have national benefits which need to be taken into account.	Support	Accepted	Accepted	Accepted
	Section 12	Amend to identify areas suitable for renewable energy developments, include provisions outlining how trade offs between localized effects and benefits of renewable energy should be made, potential future renewable energy technologies and make policy provision for these.	Support in part	Accepted in part	Accepted	Accepted
	Section 12.1	Amend to recognise that a reliable and secure supply of energy at affordable prices is essential to NZ's future prosperity and welfare.	Support	Accepted	Accepted	Accepted.
	Section 12.1 – Explanation	Amend para 3 by deleting reference to <u>small scale</u> in respect of renewable energy sources.	Support	Accepted	Accepted	Accepted
31	Meridian Energy					
	Section 7	Amend to recognise that renewable energy projects often have to locate in the coastal environment and the national, regional & local benefits of renewable energy resources.	Support	Accepted in part	Accepted	Accepted
	Section 9.1	Amend so that section reflects RMA.	Support	Accepted in part	Accepted	Accepted
	Section 9.1 - Policy 2	Delete policy as it seeks to protect features that aren't outstanding landscapes or natural features.	Support	Accepted in part.	Declined	Refer to Mighty River Power's Hearings Submission.
	Section 9.3	Amend so that section better recognises positive effects of appropriate use and development and allow for those effects to be fully considered and balanced.	Support	Accepted	Declined	Accepted
	Section 12 – Methods	Amend to include methods to encourage the development of renewable resources and promote the benefits of use and	Support	Accepted	Accepted	Accepted

Sub No/ Submitter	Plan Provision	Relief sought by Submitter	Further Submission	Council's Decision	Submitter's Decision	Mighty River Power's Decision
		development through appropriate provisions in district plans.				
	Section 12 – Objective & Policy 2	Amend objective & policy 2 to better reflect the intent of RMA.	Support	Accepted	Accepted	Accepted
33	Federated Farmers of NZ [Inc] – Taranaki Province					
	Section 8.1 - Policy 2	Amend policy to read: "Adverse effects on <u>significant</u> indigenous biodiversity"	Support	Accepted in part	Accepted	Accepted
35	TrustPower Limited					
	Section 5 – Policy 1(e)	Remove reference to <u>any</u> environmental effect, refer to "more than minor"; include cross references to other policies; add new criterion referring to social & economic benefits	Support	Accepted in part.	Accepted	Accepted
	Section 5 - Policy 2(a)	Amend to limit these policies <u>to water bodies which have actual or potential outstanding value</u> and map them. Amend to limit these policies <u>to water bodies which have outstanding natural character</u> and distinguish the policy from Appendix 1.	Support	Accepted in part.	Accepted	Accepted
	Section 5 - Method 3 (b)	Seeks to qualify the reference to 'natural character and in stream values' by inserting the word 'outstanding'.	Support	Accepted in part	Accepted	Accepted
	Section 5.4 – Back ground	Exclude "artificially created wetlands" from the definition of "wetlands".	Support	Accepted in part	Accepted	Accepted
	Section 5.6 - Method 1	Amend to recognise the economic benefits to the region and nation from the use of rivers and lakes and their beds for the hydro electricity industry and other resource users.	Support	Accepted	Accepted	Accepted
	Section 7 - Policy 2	Amend to refer to the benefits of enabling renewable sources of energy as well as non-renewable sources to establish in the coastal areas of the Region.	Support in part	Accepted in part	Accepted	Accepted
	Section 8.1 –Policy 2	Amend to make reference to "significant" indigenous biodiversity	Support	Declined	Accepted	Accepted and supported. The issue of 'significant' is dealt with effectively in the objective to this section and section as a whole now reflects the requirements of s 6(c) of the Act.
	Section 9.1 - Back ground	Amend para 3 to identify "other areas" as being specifically nominated areas which have outstanding landscape or other features; or clarify if reference should be to Appendix 1.	Support	Accepted	Accepted	Accepted
	Section 9.1 - Objective	Delete reference to "other natural areas".	Support	Accepted in part	Accepted	Accepted
	Section 9.1 - Policy 1	Use clauses (a) – (f) as a guide to consideration of resource consent applications and plan changes. Delete method as	Support in part	Accepted in part.	Accepted	Accepted

Sub No/ Submitter	Plan Provision	Relief sought by Submitter	Further Submission	Council's Decision	Submitter's Decision	Mighty River Power's Decision
		implies some future but unspecified action. Refer to "important, significant, or outstanding features".				
	Section 9.1 - Policy 2	Seeks to delete policy	Support	Declined	Accepted	Refer to Mighty River Power's Hearings Submission.
	Appendix 1	Amend to specify the qualities and values which are referred to in Appendix 1 by adding them from the Regional Fresh Water Plan; include cross references in the Appendix to those policies to which it applies; include a Method to be used when adding or deleting items from the Appendix.	Support	Accepted	Accepted	Accepted



8 October 2008

Taranaki Regional Council
Private Bag 713
47 Cloten Road
Stratford
TARANAKI

Attention Gray Severinsen - Policy Manager
Facsimile 06 765 5097

Dear Mr Severinsen

Proposed Regional Policy Statement for Taranaki
HG Ref 1020-124047-01

Tegel's primary submission raised concerns with the wording of Policy 1(b) in Section 6.1 of the Regional Policy Statement relating to offensive or objectionable odorous contaminants. Tegel and Genesis both submitted on this policy and offered different wording. The 'Report on Submissions following pre-hearing consultation' states that the relief sought by both Tegel and Genesis was to be granted, despite the fact that the suggested wording from both parties is different. The amended policy in the Proposed Regional Policy Statement reads:

"(b) to the fullest extent practicable, any discharge to air of odorous contaminants, does not create an offensive or objectionable effect beyond the boundary of the property of the discharger; and..."

We are concerned that the wording of this policy implies too high a test for activities discharging contaminants into the air. That is, the provisions fail to recognise that some air emissions may be acceptable. It is our view, an acceptable air quality is one which may, from time to time, contain non-hazardous odours, dust and particulate arising from natural, animal and human activities. A certain 'base level' of air emissions may be acceptable to the receiving community, particularly in a rural environment. For instance, a certain level of odour generated by farming activities within the rural environment may be acceptable.

We consider that rather than being concerned with 'offensive and objectionable odour', the Taranaki Regional Council should instead be concerned with odour resulting in unacceptable adverse effects on the environment. The Ministry for the Environment has released the 'Good Practice Guide for Assessing and Managing Odour in New Zealand', June 2003. The purpose of the Guide is to provide a national approach to assessing and managing offensive odour so that the methods applied are consistent and there is a level playing field throughout New Zealand. The Guide contains numerous key

Harrison Grierson Consultants Limited
71 Great South Rd Newmarket
Auckland New Zealand
PO Box 5760 Wellesley Street
Auckland New Zealand
Ph 09 917 5000 Fax 09 917 5001
Email auckland@harrisingrierson.com
www.harrisingrierson.com
ISO9001 Quality Assured

recommendations for good practice and advice regarding the appropriate 'tests' for odour.

The Guide states at page 15 that –

'...the recommended consent condition for the environmental effect of an odour is that it should be of the general form:

"There shall be no objectionable or offensive odour to the extent that it causes an adverse effect at or beyond the boundary of the site".

It is usually insufficient for an odour to simply be detected at or beyond the boundary of a site. As discussed in section 3.3.1, the odour must be sufficient to create an adverse effect and the odour must be objectionable or offensive in the opinion of an "ordinary reasonable person"...'.

The Ministry for the Environment is making the point that the important matter is whether the odour causes an adverse effect.

We consider that the wording of Policy 1(b) in Section 6.1 of the Proposed Regional Policy Statement should be amended along the lines of the wording suggested by the Ministry for the Environment, as suggested in Tegel's primary submission, as follows:

"(b) to the fullest extent practicable, any discharge to air of odourous contaminants is not offensive or objectionable to the extent that it results in significant adverse effects beyond the boundary of the property; and..."

As this is the only outstanding concern of Tegel, we can advise that we do not wish to be heard at the hearing of submissions on Thursday 16 October 2008. We would, however, like to reserve the right to table this letter at the hearing and for our submissions to be taken into consideration.

Yours faithfully

Harrison Grierson Consultants Limited



Neil Black
Planner

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16 October 2008

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

**Proposed Regional Policy Statement for Taranaki:
Hearing of submissions**

Purpose

1. The purpose of this memorandum is to:
 - provide Members with background information on regional policy statements and on the processing of submissions on the Proposed Regional Policy Statement for Taranaki (Proposed RPS) leading up to the hearing of submissions on the Proposed RPS;
 - introduce the two documents that will form the basis of the hearing;
 - summarise the main issues raised in submissions and which may be the subject of verbal submissions at the hearing;
 - recommend that the Hearing Committee agree on its recommendations on submissions to the Proposed RPS; and
 - outline the next steps in the process subsequent to the hearing.
2. Attached separate to the Agenda for Members' information are the two documents that will form the basis of the hearing:
 - Report on submissions following pre-hearing consultation; and
 - Proposed Regional Policy Statement for Taranaki as amended following pre-hearing consultation.
3. Copies of the original submissions and further submissions made by submitters will be available for Members at the hearing.

Background

4. The Resource Management Act 1991 (the Act) requires every regional council to have in place a Regional Policy Statement for its region. The Act also requires regional councils to undertake a full review of its regional policy statement not later than 10 years after the statement became operative.

5. The current Regional Policy Statement for Taranaki (RPS) was made operative in 1994. It was the first RPS to be approved in New Zealand.
6. A review of the RPS began in late 2003. Consideration was given to changes in legislation and case law over the previous 10 years that might change the purpose, content etc of the Proposed RPS. A review of the Council's biodiversity functions and responsibilities was undertaken for the RPS review following changes to the Act in 2003 that gave additional responsibilities to local government in this area. A major consultation exercise was carried out in 2005/06 with the release of the discussion document *'Ten years on – A review of the Regional Policy Statement for Taranaki'*. This document built on (among other things) the findings of the Council's state of the environment report released in 2003.
7. This work led to the preparation of a draft version of the Proposed RPS which was subject to wide ranging stakeholder review and legal audit. A Proposed RPS was then prepared and presented to the Council and was subsequently publicly notified for submissions on 23 September 2006. The proposed RPS was accompanied by a report required by section 32 of the Act (the section 32 report) which contained an evaluation of the costs and benefits of adopting the objectives and policies in the Proposed RPS, consideration of alternatives and of the appropriateness of the provisions of the document for achieving the purpose of the Act. Members should note that the obligations under section 32 to consider alternatives and benefits and costs etc of the provisions of the Proposed RPS will also apply at the time the Council makes decisions on submissions to the Proposed RPS.
8. A total of 35 submissions were received on the Proposed RPS by the time submissions closed on 24 November 2006. The Council was then required to summarise the submissions and give public notice calling for further submissions in support or opposition to the initial submissions. A total of 21 further submissions were received by the closing date of 13 April 2007.

Purpose of the RPS

9. The purpose of the RPS as set out by section 59 of the Act is:

'... to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.'
10. The RPS plays a pivotal role in resource management in the region because it must identify the significant resource management issues of the region and the policies and methods for addressing those issues and because regional and district plans must *'give effect to'* the provisions of the RPS. Prior to 2005 the requirement was that such plans be *'not inconsistent with'* the RPS. This strengthening of the status and influence of the RPS means that care and clarity is required in its drafting.
11. Members should note that a RPS cannot contain rules in the sense of rules that are included in plans to allow, regulate or control activities. However, the RPS may contain policies that can be flexible or inflexible or broad or narrow and specific in the actions set out within it. The choice of language in the RPS and in any changes proposed by way of submissions is therefore an important consideration for the Council.

Contents of the RPS

12. Section 62 of the Act contains a 'recipe' for the contents of regional policy statements. All regional policy statements must state:
 - The significant resource management issues for the region including resource management issues of significance to iwi authorities within the region;
 - The objectives sought to be achieved by the statement;
 - The policies for those issues and objectives and an explanation of the policies;
 - The methods (excluding rules) to be used to implement the policies;
 - The principal reasons for adopting the objectives, policies and methods;
 - The environmental results anticipated from implementation of the policies and methods;
 - The processes to be used to deal with issues that cross local authority boundaries and issues between territorial authorities or between regions;
 - The local authority responsible for specifying the objectives, policies and methods for the control of the use of land to avoid or mitigate natural hazards, to prevent or mitigate the adverse effects of the storage, use, disposal or transportation of hazardous substances and to maintain indigenous biodiversity;
 - The procedure used to monitor the efficiency and effectiveness of the policies and methods; and
 - Any other information required for the purpose of the regional council's functions, powers and duties under the Act.
13. The requirements as to the contents of the RPS must also be borne in mind when considering submissions made on the Proposed RPS. Fundamentally though the RPS is to achieve the purpose of the Act itself and the contents of the RPS will need to reflect this purpose. Important considerations regarding content will therefore revolve around such things as the meaning of sustainable management (including use and development as well as protection of resources), the extent to which adverse effects are to be avoided, remedied or mitigated, the weight to be given to matters under section 6 (matters of national importance), section 7 (other matters) and section 8 (Treaty of Waitangi), the balancing within these sections and between these sections and the purpose of the Act itself.

The submissions

14. As noted above, 35 initial submissions and 21 further submissions were received on the Proposed RPS. Submissions have come mainly from industry or industry groups, government department and agencies, environmental organisations and district councils. A number of submissions have come from agencies based outside the region but who have operations here or who otherwise have interests within the region. Some 14 of the 35 initial submitters and 6 of the 21 further submitters are based within the Taranaki region.
15. The 35 initial submissions have raised in total, 585 separate submission points. The further submitters have supported or opposed in whole or in part the submissions

made by the initial submitters. Further submitters are not legally able to raise new submission points in their further submissions but are simply to support or oppose the submissions already made.

16. Many submissions indicate support for the overall content and management approach contained within the Proposed RPS with a number of submissions requesting that certain provisions be retained. However, there have also been many requests for change, some of which are to clarify the meaning of current provisions or to add further context and background information and others which seek deletions from or additions to specific provisions of the Proposed RPS.

Pre-hearing consultation

17. Following receipt of all submissions, an Officer's report on submissions was prepared. The Council agreed that this report be distributed to all submitters as a basis for pre-hearing consultation.
18. The Officer's report contained a response to each submission point and a recommendation to either grant or decline the relief sought in submissions. Submitters were asked to indicate whether:
 - They were satisfied with the response and recommendations in the report and did not wish to appear at a hearing of submissions;
 - They wished to engage in a pre-hearing meeting to discuss the response and recommendations in the report with a view to narrowing down the issues to be presented at a hearing of submissions or deciding subsequent to the pre-hearing meeting that they do not wish to appear at a hearing of submissions; and
 - They did not wish to engage in a pre-hearing meeting but wished to appear at a hearing of submissions.
19. Members should note that at this stage of the process the Council did not formally adopt the report or its recommendations. The report had been prepared as part of the consultation process prior to a formal hearing of submissions noting that formal decisions on submissions would be made and changes to the Proposed RPS adopted after the hearing of submissions.
20. The purpose of the pre-hearing consultation process was to develop a mutual understanding of the issues and where possible resolve outstanding issues and reduce the number of submitters who wish to appear at a hearing or to narrow down the number of issues to be presented at a hearing. This process had been very successful in previous RPS and plan development processes and had been welcomed and appreciated by submitters.
21. The pre-hearing consultation process has again proved to be beneficial. Most submitters have appreciated the opportunity to consider the Council's response to their submissions and to clarify issues further or possible amendments to recommendations, prior to a formal hearing.
22. Since April 2008, pre-hearing meetings, telephone discussions and mail/email correspondence have been undertaken with submitters. A number of submitters were satisfied with the officer recommendations and did not wish to engage in further discussions. Where meetings or other discussions took place, many issues have been

clarified and possible amendments to recommendations on submissions discussed and agreed on at a staff level. It has been emphasised however that it is the Council that makes final decisions on submissions and that this will take place after the hearing of submissions.

23. The outcome of the pre-hearing consultation process is recorded in the report '*Proposed Regional Policy Statement for Taranaki: Report on submissions following pre-hearing consultation*' attached separate to the Agenda and in the revised RPS also attached separate to the Agenda.

Report on submissions

24. The report on submissions attached separate to the Agenda ('the report') analyses every submission point raised in each submission and provides a recommendation in relation to each submission point for consideration by the Council.
25. The report is divided into two parts. Part One introduces the report by outlining the purpose and format of the report, the Council's duties under section 32 of the Act and the approach taken to reporting on the submissions.
26. Part Two contains the main body of the report. It presents each of the 35 initial submissions in numerical order. For each submission point within the submission it sets out:
 - the decision sought by the submitter;
 - the name of further submitters (if any) who have either supported or opposed the submission;
 - the initial response to the decision sought;
 - the outcome of pre-hearing consultation under the heading 'Pre-hearing consultation'; and
 - a recommendation on the relief sought.
27. Recommendations in the report are either that the relief sought by the submitter be granted, granted in part or declined. Where recommendations contain wording from the Proposed RPS this is shown in italics with proposed word changes or additions underlined and proposed deletions shown by a line through the word or words to be deleted.
28. Where a matter has been dealt with in one part of a submission and the same matter is raised in a subsequent part of the same submission, cross reference is made to that part of the submission in which the matter was first raised. However, when the same matter is raised in another submission, the matter is dealt with fully in that submission. This approach has reduced repetition when dealing with individual submissions but ensures that each submitter receives a specific response to each of the points they have raised.

Revised RPS

29. The revised Proposed RPS attached separate to the Agenda shows all the recommended amendments to the RPS arising from the submissions process.

30. Again, proposed word changes or additions are shown in italics and underlined while proposed deletions are shown by a line through the word or words to be deleted.

Main issues for consideration

31. The main issues raised in submissions are set out below to assist members. The names of the submitters who have raised the issue are listed together with the submission number under which issue is dealt with in the attached report on submissions.

New section on use and development of resources

32. Some submitters e.g. Genesis Power Ltd (submission 8f) and TrustPower Ltd (submission 35b) consider that the RPS should contain additional provisions to recognise the role of resource use in Taranaki and its contribution to economic and social wellbeing.
33. The report notes that the Proposed RPS as a whole has been prepared to recognise the role of resource use in Taranaki and its contribution to enabling people and communities to provide for their economic and social wellbeing. This is reflected for example in the issue statements, background to the issues, and in the objectives, policies and methods and in the various explanations of the policies etc. However, while acknowledging this point in pre-hearing discussions, submitters considered that recognising the role of resource use and development should be made more explicit by the inclusion of a new section in the RPS and that this would more clearly reflect the sustainable management definition in the RMA.
34. To assist in providing further clarification on this issue it is proposed to include a new section in the RPS including issue statement, objective, policy and methods, to recognise the role of resource use and development in Taranaki and to include a statement at the beginning of Part B of the Proposed RPS which refers to the social and economic benefits of resource use. This makes more explicit what is already provided for in other sections of the RPS and is consistent with the sustainable management purpose of the RMA.

New section on Minerals

35. Several submitters – Crown Minerals, Ministry of Economic Development (submission 5a), Winstone Aggregates (submission 10b) and the Aggregate and Quarry Association (submission 26a) – have sought that a new section be inserted in the RPS to provide for appropriate use and development of mineral resources.
36. The report notes that minerals are specifically identified as natural and physical resources under the Act whose sustainable management is to be promoted and that Taranaki has significant mineral resources for which clear policy should be developed. While mineral development is able to occur within the framework provided in the Proposed RPS, a new section is proposed to be included in the RPS to provide further clarity and certainty on this issue. The new section would deal with three related issues: recognising and providing for appropriate use and development of the region's mineral resources; managing reverse sensitivity effects that may compromise mineral extraction activities; and avoiding, remedying or mitigating the adverse effects on the environment of mineral development.

Policies to avoid etc any adverse effects

37. Fonterra (submission 21d) and TrustPower Ltd (submission 35b) oppose the wording of objectives and policies in the Proposed RPS to avoid etc any adverse effects. They seek changes so that the objectives and policies refer to avoiding etc adverse effects that are more than minor or that adverse effects are avoided, remedied or mitigated as far as practicable or that protection be limited to that which is outstanding or significant. The submitters note that it may not always be possible to completely avoid, remedy or mitigate any (ie: all) adverse effects and that positive effects (economic and social benefits etc) may outweigh adverse effects in the overall balancing required by section 5 (the sustainable management purpose) of the Act.
38. The report notes that the current wording of such objectives and policies reflects the wording of the Act. However, it is recognised and accepted in law that it may not always be possible (or necessary) to completely avoid, remedy or mitigate all adverse effects and positive effects may outweigh adverse effects in the overall weighing up or balancing of factors under section 5 of the Act.
39. It is therefore proposed to include a statement at the beginning of Part B of the RPS which clarifies the way in which adverse effects will be addressed. It is also proposed to include in various policies, methods and "Explanations" and "Principal reasons" sections of the RPS statements that any adverse effects are to be avoided, remedied or mitigated as far as practicable. This is to recognise that in some circumstances it may not always be possible (or necessary) to completely avoid, remedy or mitigate all adverse effects, for example some effects will be so minor as to be inconsequential and can be ignored while other effects that cannot practicably be avoided, remedied or mitigated, may be outweighed by positive effects.
40. Policies and other provisions amended in this way are in sections 5.1 (sustainable allocation of surface water resources); 5.6 (Managing effects associated with the use of disturbances to river and lake beds); section 6.1 (Maintaining air quality); section 7.2 (Maintaining and enhancing coastal water quality); section 8 (Maintaining and enhancing indigenous biodiversity); and section 9.3 (Maintaining and enhancing amenity values).

Water allocation

41. Some submitters considered that the Proposed RPS did not give sufficient priority access to existing users of water or to uses of water that make a significant economic contribution to the community (Contact Energy Ltd, submission 20m, Fonterra Ltd, submission 21t, and TrustPower Ltd, submission 35f). Contact Energy Ltd (submission 20h-j) and the Energy Efficiency and Conservation Authority (submission 29a), sought greater clarity and recognition of hydroelectric power generation in policies on water availability and use.
42. It is proposed to amend the policy on water availability for consumptive uses of water to deal with water availability generally (including non-consumptive uses such as hydroelectric power generation).

43. Considerable discussion took place with submitters on the criteria that should be included in the policy to determine water allocation priorities and the methods available to implement the policy including whether the Council could use the resource consents process to allocate water to other uses or users at some point in the future.
44. It is proposed to amend the current policy on water allocation priorities to reflect the principle of “non-derogation from grant of rights” established in case law which has determined that existing resource consent holders cannot have their entitlement to water significantly derogated from (reduced or diminished) within the term of the consent by granting resource consents to other parties to use the same resource. This is to be made clear in a stand alone policy (Policy 5) in section 5.1 of the RPS.
45. It is also proposed to clarify in a revised Policy 6 in section 5.1 that water will generally be allocated on a first-come-first-served basis but that where there is or is likely to be competition for the use of water, then subject to the Part 2 requirements of the Act allocation of surface water will be made to reflect the criteria listed in the policy. Additional criteria such as the value of investments made by existing consent holders and the efficiency of use of water resources are proposed to be included.
46. The Explanation of Policy 6 makes it clear that the policy to allocate water (and to reallocate water to other uses in future if necessary and appropriate) will be implemented through the resource consent process and through provisions in a water allocation plan. This ensures that the Council's approach to water allocation is sufficiently adaptive and flexible to respond to changing economic conditions and changing water demands and community expectations in relation to water use.
47. Legal advice was sought on the criteria to be included in the Policy and the methods (including resource consents) available to implement the policy. This advice has confirmed that the resource consent process may be used to reallocate water to other uses provided this is clearly spelt out in the terms and conditions of the consent itself. Officers consider that the general policy on water allocation now proposed in the revised version of the RPS is appropriate to the issue being addressed and meets the requirements of law.
48. TrustPower Ltd has sought greater clarification of those waterbodies or parts of them of high value for their natural character and instream values (and which are to have their water levels and flows maintained as far as practicable in their natural state) under Policy 2 of section 5.1 (submissions 35 c and i). It is proposed to amend the Explanation of Policy 2 to refer more clearly to Appendix I which lists river and stream catchments with high natural values.

Issues concerning Energy

49. A number of submissions deal with energy issues. These range from requests to: recognise an adequate supply of energy as a significant issue for Taranaki (Contact Energy Ltd, submission 20ag); include objectives and policies for non-renewable energy as well as renewable energy (Gasbridge Ltd, submission 19e); include a stand alone section in the RPS for renewable energy (Meridian Energy Ltd, submission 31k); identify areas within the region suitable for renewable energy development (Energy Efficiency and Conservation Authority, submission 29f) and include additional

information throughout the RPS on energy efficiency, energy conservation and renewable energy resources and opportunities (Energy Efficiency and Conservation Authority, submissions 29g-r).

50. Again, energy is specifically mentioned in the Act as a natural and physical resource whose sustainable management is to be promoted. The report acknowledges that promoting an adequate and secure supply of energy is a significant resource management issue for the region (even though the tools available to local government to implement policy on this issue are limited). However, the Proposed RPS already includes methods to promote and facilitate energy supply and it is proposed for reasons of clarity that this be added to the RPS as a separate issue.
51. The Proposed RPS already identifies the promotion of renewable energy as an issue, however it is proposed to include additional information in the RPS on renewable energy given the requirements of the Act that Councils are to have particular regard to the benefits of renewable energy; the Government's emphasis on renewable energy as set out in the New Zealand Energy Strategy to 2050 and the assessment of renewable energy resources in Taranaki carried out by EECA in 2006. It is not proposed however, that the RPS identify areas of the region suitable for development of renewable energy.

Landscape

52. A number of submitters have raised concerns about the landscape section of the Proposed RPS (see Winstone Aggregates Ltd, submissions 10c-g, Meridian Energy Ltd, submissions 31d-f, and TrustPower Ltd, submissions 35ao-ar). Concerns are that the landscape section is overly protective of all natural features and landscapes; does not recognise the balancing requirements of the Act; that the policies are too broad; there is no guidance on what might be appropriate use and development within important landscape areas and that protection should only be given to outstanding natural features and landscapes as required by section 6 of the Act. Winstone Aggregates and the New Plymouth District Council (submission 16q) have sought that the Taranaki Regional Council identifies outstanding natural features and landscapes in the RPS or in a regional plan.
53. The report on submissions acknowledges that the wording of parts of the Proposed RPS is broad and should be tightened up to provide greater clarity on landscapes and landscape values in Taranaki. The report does not accept however, that landscape protection policies should be limited to those natural feature and landscapes that are deemed to be outstanding. There are other natural features and landscapes that while not outstanding are, nevertheless still important at a local or district level and therefore worthy of some level or degree of protection. It is therefore proposed that the RPS provide a clearer distinction between the degree of protection afforded to outstanding natural features and landscapes and that for other natural features and landscapes.
54. It is also proposed to include a new issue and policy that addresses the need to identify what is appropriate use and development in the context of protecting our outstanding and other natural features and landscapes. It is not proposed that the Council identify outstanding natural features and landscapes in the RPS or a regional plan as this matter is more closely aligned to the land use planning and control functions of district councils.

Biodiversity

55. TrustPower Ltd, (submissions 35ah-am) sought that the entire biodiversity section be withdrawn and redrafted or that amendments be made to policy to balance biodiversity values with other values and community benefits. Concerns are that the Proposed RPS does not define 'significant indigenous biodiversity values', does not provide means by which biodiversity values can be distinguished from other values referred to in other sections of the RPS and that there is no reference in the policies relating to the need for a balance between biodiversity values and community benefits including social and economic benefits.
56. Federated Farmers (submissions 33ak-ar) considers that the policies on biodiversity are too restrictive and do not recognise the stewardship role of the landowner and suggests that the Council take the time to research best practice in promoting the protection of indigenous vegetation.
57. Many of the concerns of these submitters are proposed to be overcome by the addition of relevant words in policies that recognise the need to balance use, development and protection (particularly given that many of our biodiversity issues arise on privately owned land in productive agricultural environments) and the need to work with landowners and others on these issues. These matters have been taken into account in the drafting of the section but some additional wording and further description and explanation of the policies and methods will clarify the Council's intentions and approach to biodiversity protection.

Water quality

58. Fish and Game Taranaki considers that the RPS needs to provide greater recognition of the cumulative effects of point source discharges on water quality (submission 12t). This issue is addressed in the Proposed RPS but additional background description and a new issue statement on cumulative effects is proposed.
59. The New Plymouth District Council (submission 16e) requests that special attention and value be placed on source waters and their catchments which are used for domestic and community water supplies. Again this matter is recognised in the Proposed RPS but it is proposed to make this clearer and more explicit by including additional policies and methods in the RPS.
60. Fonterra (submission 21w) seeks that in relation to surface water quality, policies refer to 'maintain or enhance' rather than 'maintain and enhance' water quality because it will not always be possible to enhance water quality. It is proposed to retain the objective to maintain and enhance water quality as this has been the goal of the Council for some time now. However, it is proposed to add further explanation of the Council's policy on this matter that at a region-wide level the policy is to maintain and enhance water quality.

Wetlands

61. Section 5.4 of the Proposed RPS contains objectives and policies to protect the natural character of wetlands. TrustPower Ltd (submission 35p) seeks that artificially created

wetlands or those associated with hydroelectric power generation be excluded from the policies and methods under this section.

62. The Officer's report notes that the RMA does not exclude artificially created wetlands from the requirement under section 6(a) of the Act to protect the natural character of wetlands and their margins from inappropriate subdivision, use and development. However, following discussions with the submitter it is proposed to include a statement in this section that the protection of the natural character of artificially created wetlands should enable the continuing use of the wetland for the purpose for which the wetland was created.

Coastal issues

63. The Department of Conservation (submission 22m) seeks clarification and change to the apparent hierarchy of protection of the natural character of the coast which has protection of areas of outstanding coastal value in the coastal marine area ahead of protection of other areas of value in the coastal environment. Changes are proposed to recognise that areas of coastal value or of regional significance may occur throughout the coastal environment and not just in the coastal marine area.
64. It is proposed to include additional information in the RPS on the potential for marine electricity generation in the coastal environment (Energy Efficiency and Conservation Authority, submission 29e); to clarify provisions regarding use and development in the coastal environment (Contact Energy Ltd, submissions 20x and y), and to give greater recognition to the value of Port Taranaki to the region (Genesis Power Ltd, submission 8d).
65. More explicit recognition is proposed to be given to Taranaki's surf breaks as natural features (New Plymouth Surf Rider's Club, submission 1b).

Controls on land use for soil erosion purposes

66. New Zealand Forest Managers (submission 9b) has submitted that there is an inconsistency in the methods adopted for different land uses (forestry verses pastoral farming) to address the issue of accelerated soil erosion and seeks that regional rules are applied in a fair and equitable manner. Further explanation of the Council's approach to this issue is proposed to be included in the RPS.
67. Federated Farmers (submission 33c) opposes methods which require the Council to apply regional rules to regulate soil and vegetation disturbance activities that cause erosion. The relevant method is proposed to be amended to enable but not require the Council to apply such rules.

Infrastructure and land use planning

68. Transit New Zealand (submissions 30k-r) has sought that a new issue, policies and methods be included in the RPS dealing specifically with integrating infrastructure with land use to facilitate sustainable infrastructure provision and funding. Methods include provisions in district plans and LTCCPs that require location, staging etc of new land use to be coordinated with provision and funding of infrastructure. The methods also propose that district plans include provisions requiring structure or

concept plans for large scale urban land use changes. It is proposed to include an additional issue and associated objectives, policies and methods on this issue to more explicitly recognise this issue and the Council's function under section 30 (1) (gb) of the Act, namely the strategic integration of infrastructure with land use through objectives, policies and methods.

69. Transpower NZ Ltd (submissions 4m, 17b and 32e) has sought additional provisions be included on infrastructure, particularly that associated with electricity transmission, to reflect the requirements of the National Policy Statement on Electricity Transmission which came into force in April 2008. The additional provisions give effect to the NPS on Electricity Transmission, are appropriate to the issue and are consistent with Transpower's submissions on this issue.

Directions to territorial authorities

70. The Department of Conservation (submission 22z) has requested that the RPS be more directive to territorial authorities in the methods of implementation by stating that 'territorial authorities will consider...' rather than the current wording of 'territorial authorities may wish to consider...'. It is not proposed that the RPS be changed to alter the way in which territorial authorities are referred to in the methods of implementation sections of the RPS. The report notes that the wording of objectives and policies are quite directive and these are required to be given effect to. Territorial authorities will consider what methods are most appropriate to give effect to the policies when exercising their duties under section 32 of the Act.
71. It is proposed to include a statement at the beginning of Part B of the Proposed RPS which provides further clarification on this matter.

Otaraua Hapu Trust submission

72. The Council has received legal advice that this submission (submission 14) is not a legally valid submission and as a consequence there is no legal basis for the Council to grant relief. The Council has advised the Trust of this fact. The Council has further advised the Trust that it may speak to its submission at a Council hearing of submissions but that no relief can be granted.
73. In its submission The Trust had indicated that it would present a large part of its submission in Maori and stated that it expected to have a suitably qualified translator at the hearing. The contact person for the submitter (Mr. David Doorbar) has since advised (10 September 2008) that they would no longer need a translator present at the hearing.

Notification and conduct of hearing

74. All submitters have been advised of the hearing and sent copies of the Report on submissions and the amended Proposed RPS. All submitters have been asked to consider the amended documents and advise whether they do or do not wish to attend the hearing. A number of submitters had indicated that on the basis of the earlier Officer's report they did not wish to appear at a hearing. However, because changes to the Officer's report and Proposed RPS have been made as a result of pre-hearing

consultation, it is necessary to seek confirmation from all submitters of those who wish to attend the hearing.

75. It is likely there will be significantly fewer than the 37 original and further submitters wishing to be heard and that the number of outstanding issues will be much reduced as most of the issues have been addressed through the pre-hearing process. This contrasts with RPS hearings elsewhere in the country that have weeks of hearings and reinforces the importance and value of maintaining positive and professional relationships with key stakeholders.

Deliberations of the Committee

76. At the conclusion of the presentation of submissions, the Committee will need to formulate its recommendations as to the changes to be made to the Proposed RPS. This should be done after a short break at the conclusion of the presentation of submissions if time permits.
77. All submissions will need to be considered by the Committee. This includes all written submissions and further submissions (whether or not submitters have appeared at the hearing), verbal submissions and evidence presented at the hearing and any additional written submissions or evidence tabled at the hearing by submitters who did not appear at the hearing.
78. In making its recommendations to the Council, the Committee will need to consider the requirements of section 32 of the Act. This requires that before the Council makes decisions on submissions to policy statements or plans, it must carry out an evaluation that examines:
 - the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
 - whether having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.
79. For the purposes of the examinations referred to above, the evaluation must take into account:
 - the benefits and costs of policies, rules or other methods; and
 - the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

Report of the Committee

80. Once the Committee has reached its decisions on the recommendations to be made to the Council, a report will be prepared that sets out the Committee's deliberations and its recommendations to the full Council on those submissions.
81. This report will be considered by the Committee at its next meeting with a recommendation that the Council adopts the Committee's report and recommendations and noting that a formal decisions document will then be prepared for adoption by the Council.

Decisions on submissions

82. Following consideration and adoption of the Policy and Planning Hearing Committee report, a formal document recording the decisions of the Council on all submissions, and the Council's reasons for making those decisions, together with an amended version of the RPS, will be submitted to the Council for adoption.
83. The decisions will then be released and publicly notified. References (appeals) to the Environment Court on the Council's decisions can then be made by submitters within 30 working days of service of the Council's decisions.
84. The Council can approve the RPS and make it operative once the reference (appeal) period has passed (likely to be early in 2009) and there are no references or after references have been determined by the Environment Court.

Decision-making obligations

85. 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 recommendations made in this item comply with the decision-making obligations of the Act.

Policy considerations

86. 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

87. 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

88. 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 Proposed Regional Policy Statement for Taranaki: Hearing of submissions;
2. receives and acknowledges with thanks the submissions made on the Proposed Regional Policy Statement for Taranaki;
3. notes that the Policy and Planning Hearing Committee having considered all written and verbal submissions made on the Proposed Regional Policy Statement for Taranaki and the requirements of the Resource Management Act has agreed on its recommendations in relation to submissions being the recommendations contained in

the report *“Proposed Regional Policy Statement for Taranaki: Report on submissions following pre-hearing consultation”* as amended following the hearing of submissions; and

4. directs officers to prepare a Hearing Committee report setting out the Committee’s recommendations on all submissions.

AD McLay
Director-Resource Management

Approved:

B G Chamberlain
Chief Executive