

**SUBMISSION ON THE
PUBLICLY NOTIFIED PROPOSED ONE PLAN
UNDER CLAUSE 6 OF THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT
1991**

**To The Chief Executive Officer
Horizons Regional Council (Regional Council)
11-15 Victoria Avenue
Private Bag – 11025
PALMERSTON NORTH**

**Submission On: Proposed One Plan – Consolidated Resource Policy
Statement, Regional Plan, Regional Coastal Plan For The Manawatu –
Wanganui Region (One Plan)**

**From Ruapehu District Council
Private Bag 1001
Taumarunui**

The submitter wishes to be heard in support of this submission.

PART ONE - INTRODUCTION

Ruapehu District Council believes that the big challenge facing the Manawatu-Wanganui Region is to strike the right balance at this time between sustainable environmental management and sustainable community development, which are the two legal requirements underpinning the development of the One Plan. It is Council's belief that the One Plan does not achieve this.

Regional Council has regularly publicly endorsed the science underpinning the One Plan. The most significant regional planning document of our decade must match science with an in-depth understanding of sustainable development, and give both equal emphasis. It was therefore with immense disappointment that this District and Council had it announced to it on 3 August 2007 that Regional Council had not done economic and social sustainability analyses, but had developed a Plan based around science.

The One Plan will have a massive impact on individuals and communities across the region; their livelihood, economic sustainability and community growth and investment. This need for balance was why both the Resource Management Act 1991 (RMA) and Local Government Act 2002 (LGA) legally require the Regional Council to have done this in-depth community and economic sustainability analysis. In fact the 3 August announcement was that economic and social sustainability were not the Regional Council role. This is an error in law under both the RMA and LGA. Because of this omission, Council requests that the One Plan be withdrawn until its legislative requirements are fulfilled.

The second reason that Council requests the One Plan's withdrawal is its degree of incompleteness in policy leaving open too much scope for varying interpretations by different individuals, a lack of understanding of the impact of the policies and rules on community infrastructure planning, and the impracticality of implementation. Council believes that the massive reliance on new monitoring and consenting as the primary regulatory method creates a bureaucratic bow-wave of work that will cost this Council some \$500,000 annually (+3% on rates) and considerably more for Regional Council. Council questions whether the Regional Council will be able to cope with the volume of new monitoring and consent work, and meet the statutory consent timelines for all its

customers. In terms of an efficient and more effective outcome for the regional community, the One Plan seems to fall short in this respect also.

Council agrees with the need for establishing a science-based sustainable environmental 'bottom line' into the future on which the economy is built. However the 'one size fits all' approach to catchments in this District is not an answer that the science or Ruapehu Community consultation supported. This has led to serious questioning over whether the sustainable environmental bottom line has actually been successfully established, remembering that farm and entire community economies are resting not on the science itself but on a convenient interpretation of the science. An example is the designation of all hill country land in this District as HEL (highly erodable land). Not only is this false, it now confuses our community about what they can and cannot do on their land. It is not a conclusion backed by science or consultation, but a convenient method to make the job of controlling the District's land users more manageable for Regional Council. Not only is this a significant movement of Regional Council staff into the everyday lives and businesses of our farmers, it spawns a new and impractical industry in Farm Plans which will take the best part of a decade to work through at tremendous ratepayer cost. The Farm Plans are not asked for or welcomed by the majority of the farming community, and leave the Ruapehu rural economy in limbo for years, with farmers having to constantly apply for resource consents for work on their land until it is their turn for a Farm Plan.

Council acknowledges the considerable effects in consultation undertaken by Regional Council in the development of the One Plan. However, Council also recognises that sustainable community development aspirations did not form part of that discussion, and the effectiveness of some consultation in this District was limited by factors such as attendance. It is with considerable concern that local iwi are telling this Council that Regional Council has not consulted with them, and that they do not understand the One Plan. It is also with considerable concern that the farming community of Ruapehu is rejecting the One Plan. A Plan of such significance requires a coalition of broad support for its successful implementation. A Regional Council must take Districts with it and that has not yet been achieved. When this Council has raised concerns the answer has been to test the One Plan in court. This is an unfortunate approach by the Regional Council.

It has been the blanket definition and description of the vast majority of the Ruapehu District as 'HEL' by the Regional Council that has been the single most defining and offensive element of the One Plan. The inaccuracy of this, the stigma which is affecting farmers' ability to raise finance in the area, and the blatant disregard for the massive economic structural change that this initiates for this District leads Council to question how such a level of disconnection could have happened between Regional Council and its own communities.

Part Two – General Issues

As is the case when evaluating any statutory plan, the fundamental question must be asked of the One Plan, “is it sufficiently coherent and certain to be understandable and functional?” Having applied this test to the One Plan, it can be demonstrated that it is not readily understandable or functional. In fact, Part II of the One Plan does not follow from its own Regional Policy Statement (RPS).

Distinguishing between Goals and Policies and the Regional Plan and the Regional Policy Statement

Goals are something which one strives for or seeks to attain, while policies describe how one will work towards attaining the goals and as such, will have an identifiable period or timeframe for the policy to take effect.

Council is concerned that policies are not linked to timeframes. The overall objective must be that improvement in environmental performance is achieved over time. The Schedule D Table 16 standards should be used as a guide only not applied disregarding whether environmental benefit is achieved.

The Regional Council appears to be using the same set of objectives for both Regional Plan and RPS purposes when, in fact, the purpose and function of these two statutory instruments are quite different. Again, it is ultra vires the RMA to use the same objectives for different statutory purposes and it is impossible to discern which objectives “drive” which rules.

A further reason for making a clear distinction between the RPS (Part I) and the Regional Plan (Part II) in terms of policies and objectives, relates to the statutory duty of a TA to prepare a district plan which must:

- **give effect to** – any **Regional Policy Statement** [S75(3)(c)]; and
- **not be inconsistent with** – a **Regional plan** for any matter specified in S30 [S75(4)(b)].

This distinction between the objectives in the RPS and objectives in the Regional Plan is important and highlights the need to clearly differentiate between them in the One Plan. Both the preparation and administration of a District Plan require there to be a clear, coherent and self contained structure in each of the two main parts of the One Plan, otherwise district planners will find it impossible to carry out the TA’s statutory duties and functions under the RMA.

Council seeks the following decision from Regional Council:

- Withdraw the One Plan; and
- Notify a Regional Plan which is consistent with the outcomes sought in a Regional Policy Statement, the outcomes of which are consistent with Regional Plan rules.

Costs to Territorial Authorities and Ratepayers

The cost of giving effect to the policies has not been calculated by Regional Council, nor has the cost been defined in terms of any implementation timeframes. As a Council, our submission is that the policies as they currently read may result in an unsustainable community burden, which ultimately may be to the detriment of the region.

- The increased need for Resource Consents for the Land Transport activity alone will add immense cost to local ratepayers. It has been estimated that the One Plan will result in at least one extra staff for Asset Management plus a large number of extra

technical reports commissioned. It has also been estimated that there would be the need for two extra staff in the Resource Management activity. This would be an initial cost to Council of approximately \$500,000, adding 3-5% on to the rates each year as a direct result of the One Plan. This does not take into account the extra burden on ratepayers from Regional Council resulting from the One Plan.

- There will be an opportunity cost to local landowners and to Council's rating base if farmers are to retire land. Council contends that this economic cost to the District has not been taken into account in the One Plan. The fact that the One Plan does not directly advocate land retirement is a mute point. It is clear to all that this will be a major outcome of the HEL definition and of Farm Plans.
- There is a lack of transparency in the process of removing land for retirement, the costs involved both present and future opportunity costs for the farmer, the community and the TA. Council is concerned about the practicalities of removing land from production to retirement as a whole.

Council seeks the following decision from Regional Council

That the One Plan has not taken into account the increased cost to ratepayers and residents, and therefore has not discharged its obligations under the LGA 2002 and the RMA and should be withdrawn until that assessment is completed and thorough.

Four Wellbeings

The LGA is the governing act that sets out how TAs and Regional Council function. The LGA charges Regional Councils with the economic and social responsibility for implementing the four wellbeings (Section 3 (d) LGA and Section 10 (b)). The RMA 1991 (Section 5 (2)) also charges Councils with economic and social responsibility.

Regional Council has confirmed verbally and formally through the presentation to the Ruapehu District Council and the public gallery on 3 August 2007 that there has been no consideration to the social and economic sustainability in the production of the One Plan. In fact Regional Council stated that the economic and social sustainability were District Councils role. This is a breach of Regional Council legislative responsibility and significantly undermines the community's trust in Regional Council that they has discharged its statutory responsibilities in the development of this significant document.

The Regional Council formal presentation to the Ruapehu District Council on 3 August 2007 confirmed that Regional Council approach to the development of the One Plan excluding social and economic sustainability assessment was a 'philosophical view' taken by Regional Council. Council asserts that Regional Council legislative responsibility for sustainable development is very clear under the RMA and the LGA and there is no room for taking a 'philosophical view' in the development of such a significant plan. Regional Council has committed an error in law in the development of the One Plan that affects its underlying integrity.

Council seeks the following decision from Regional Council

Council submits that the One Plan methodology in development is flawed, that Regional Council has not discharged its responsibility under the LGA and therefore the One Plan must be withdrawn until a full assessment of the four wellbeings is undertaken.

Section 32 Analysis

The One Plan and the Section 32 analysis does not identify other methods and does not assist by defining the terminology such as appropriate, efficiency, benefits and costs. Therefore, the burden of proof lies with the communities who have limited time, funds and resources to undertake such an in depth analysis. Nor is it the responsibility of District

Councils to undertake this analysis for the One Plan on behalf of Regional Council. The Section 32 analysis does not distinguish between the Regional Statement and the Regional Plan.

Council seeks the following decision from Regional Council

Council submits that the One Plan is flawed, that Regional Council has not discharged its responsibility under the Section 32 of the RMA 1991 and therefore the One Plan must be withdrawn until a full assessment of other methods is undertaken for the Section 32 analysis.

Relationship with Long Term Council Community Plans

Council is concerned that in adopting the various policies and rules there appears to be no allowance in terms of timeframes for Council to consult with its community, make funding provisions and amend its LTCCP's following the legal processes prescribed under the LGA.

Council seeks the following decision from Regional Council

Council submits that Regional Council has not discharged its responsibility under the LGA and therefore the One Plan must be withdrawn until a full assessment of the cost and timeframes has been assessed.

Purpose of the RMA

The purpose of the RMA is (Section 5)

- (1) ... to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety...

Council seeks the following decision from Regional Council

Council submits that the One Plan is flawed, that Regional Council has not discharged its responsibility under the purpose the RMA 1991 to provide for the social, economic, and cultural wellbeing of communities and therefore the One Plan must be withdrawn.

One Plan will limit Growth

The policies and rules will severely limit Council's ability to implement its growth and development strategies by limiting its ability to provide infrastructure, particularly in the industrial, commercial and processing sectors. Experience clearly indicates that where community infrastructure is not readily available to service growth, business in particular will simply go elsewhere. This is not helpful for Council nor will it support the Regional Council's economic, community and social objectives.

The cost of giving effect to the policies has not been costed, nor have the costs been defined in terms of any implementation timeframes. As a Council, our submission is that the policies as they currently read, may result in an unsustainable community burden which ultimately may be to the detriment of the region.

Council seeks the following decision from Regional Council

That the One Plan will limit growth in the District and there needs to be more analysis of the social and economic costs of the policies in the One Plan. The One Plan must be withdrawn until this economic assessment is completed.

One Size Fits All

The One Plan, as currently written, adopts a "one size fits all" approach which in Council's view is not appropriate, given the wide variations in climate, topography, soils, population and deprivations indices. For example, assessment of applications for discharge consents should be limited to the specific discharge in a specific location within a specific catchment. Water quality standards must relate to effects. Mixing zones must not be defined arbitrarily.

Council seeks the following decision from Regional Council

Council submits that the One Plan is flawed, in that its Policies, Rules and Methods do not successfully recognise the differences across the Region.

Maps in the One Plan

As a general concern, the quality of the maps in the One Plan is not adequate. All the maps are considered to be inadequate to assess at a community level. In particular, in Schedule I, Floodable Areas Maps, will need to be of a larger scale and more definitive if the TA are to apply specific provisions to these areas at the district level. Also there seems to be no reference to the Ohura Flood Plain, or the Taumarunui Flood Control banks.

How can 'land mapped as hill country, highly erodible land in Schedule A' [12-2(e)] be identified from an A4 map that covers the entire region? Rule 12-3 also refers to 'highly erodible land', the definition of which (in the glossary) refers to the map in Schedule A. Maps in Schedule A, D and F, lack enough detail, for example maps do not show zone wide values or site specific values in enough detail to be of any use. Map F -2 (Whakapapa River) is also inadequate, with land marked as "significant Landscapes' covering farm land with no bush on it. The boundaries for significant landscapes need to be correct and all need to be better defined.

Council seeks the following decision from Regional Council

- (a) The following 'general' submissions highlight the areas in need of redrafting, replacement or removal in order to make the One Plan understandable and functional.
- (b) The One Plan maps must provide more definitive and useable information as necessary. In particular, the maps for 'Floodable Area Maps', Highly Erodible Land and Significant Landscapes are not adequate and need to be enlarged to give the necessary detail. New Maps should be issued or there should be access to the GIS tool to view data at a farm and community level. Data at a Regional level is not adequate.
- (c) The inadequacy of the Maps in the One Plan makes submitting in any meaningful manner difficult and renders the consultation process flawed. More detailed plans must be provided and the consultation period extended to give concerned submitters an opportunity to make assessments on the economic, social, cultural and environmental impacts of the One Plan.

General Lack of Coherence

The One Plan lacks coherence. The One Plan as a whole lacks links between the Regional Policy Statement and the Regional Plan for the Objectives, Policies and Rules. It is difficult, if not impossible in some cases, to discern the linkages between the means of implementation (rules) and the objectives and policies they are designed to give effect to.

Some Policies are in fact rules. Some methods are not methods. For examples Policy 6– 11 and methods on pages 6 – 22 and 6 – 23. This lack of clarity is of particular concern to TApplanners who are responsible for preparing S42A officer reports to their Councils, in relation to District Plan provisions and relevant national and Regional policy statements and plans. The One Plan does not recognise the difference in purpose of a Regional Policy Statement and a Regional Plan. There is no Regional Plan because Part II of the One Plan, (Section 11) aside, is devoid of Policies and objectives. As such Part II is ultra vires the RMA.

Objectives should be stated clearly in the Regional Plan (Part II) wherever rules are specified. When subjected to scrutiny, the RMA requires that a rule in a Plan be evaluated by determining whether:

- (a) it is the most appropriate way to achieve the objectives of the plan (RMA s32(3)(b)); and
- (b) it assists the Regional Council to carry out its functions in order to achieve the purpose of the Act (RMA s63);
- (c) it is in accordance with the provisions of Part 2 [RMA s66(1)]; and
- (d) *most importantly, it achieves the objectives and policies of the plan [RMA s68(1)(b)].*

Of particular significance is (d) above, which refers to s68(1)(b) of the RMA which enables a Regional Council to include rules in a Regional plan for the purpose of '*achieving the objectives and policies of the plan.*' If the objectives to be achieved are not stated in the Plan, it follows that the vires of the rules will be brought into question. It is submitted that a clear pathway must be discernible between any rule and an objective (or objectives). The rule only exists as a means of implementing policies and policies only exist to implement objectives. The One Plan does not show exactly which rules are designed to achieve which policies, which in turn are designed to achieve which objectives.

This is reinforced by Section 67 RMA, in respect of the 'contents of Regional Plans', which states that:

(1) A Regional plan must state –

- (a) the objectives for the region; and*
- (b) the policies to implement the objectives; and*
- (c) the rules (if any) to implement the policies."*

It is submitted that a clear pathway must be discernible between any rule and an objective (or objectives). The rule only exists as a means of implementing policies and policies only exist to implement objectives. It is assumed that Regional Council intends that the objectives set out in the various sections of Part I of the Plan (the RPS) are also the Regional Plan (Part II) objectives to be implemented by the policies and rules specified in the Regional Plan (Part II).

The Council seeks the following decision from the Regional Council

The One Plan needs to be redrafted so that the relationship between objectives, policies and means of implementation (in particular, rules), is made clear, coherent and lawful for both the RPS (Part I) and the Regional Plan (Part II)

The Big Four. Relates to Sections 1.1 and 1.3

Sections 1.1 and 1.3 state that the approach adopted in the One Plan is to focus on the four biggest environmental issues identified for the region (Surface Water Quality Degradation, Increasing Water Demand, Unsustainable Hill Country Land Uses and Threatened Native habitats). The Plan also states, *"That does not mean the remaining issues identified in this Plan are unimportant, simply that they are lower priority work for the 10-year life of this Plan."* (p1-1). Given that part of the RMA (s59) purpose of a Regional policy statement is to provide *"...an overview of the resource management issues of the region,"* it is submitted that *"... the remaining issues identified in this Plan..."* ought to be described in this (RPS) section of the Plan. The order of priority for these issues, how they were determined and how they are to be managed, also ought to be described in this section of the Plan in order to guide TAs in the development and application of their statutory plans.

Council seeks the following decision from Regional Council

- (a) Withdraw the One Plan unless an alternative mechanism can be identified to resolve the issue above; and
- (b) Address all issues falling within the Regional Council's functions under Section 30 of the RMA.
- (c) That a description is provided in Section 1.1 and/or 1.3 as to the remaining environmental issues identified for the region, together with statements as to their priority, how these priorities were determined, and how these issues are to be managed.

Section 1.4 'Adapting to Climate Change'

Climate change is one of the most significant resource management issues facing our communities. Section 1.4 is inadequate as a Regional Policy Statement, if in fact it can even be considered a Regional Policy Statement. As climate change is an environmental issue of significance affecting all TAs in the region, it is incumbent upon Regional Council to provide clear direction to the TAs, across TA boundaries, as to what is an appropriate local response to international and national responses to climate change concerns and initiatives. At the very least, the heading to Section 1.4 ought to be "Planning for Climate Change" not merely 'adapting' to it, as planning is a mandatory function of all TAs.

The Council seeks the following decision from the Regional Council

- (a) That there is recognition in the One Plan that climate change is the most significant resource management issue facing the region, by providing a separate section in the RPS (Part I) for climate change and providing appropriate objectives, policies and rules in the Regional Plan (Part II) section of the Plan to give effect to the policies set out in the RPS.
- (b) Withdraw the One Plan unless an alternative mechanism can be identified to resolve the issue; and
- (c) Renotify having addressed all issues falling with Regional Council's functions under Section 30 of the RMA.

The use of codes of practice and good practice initiatives, Part I, Section 1.6

Whilst it is acknowledged the use of codes of practice and good practice initiatives as non-regulatory methods can be more effective than rules in Plans in achieving specified environmental results or outcomes, the use of such codes of practice or other initiatives in a regulatory context is problematic. The One Plan states (pg 1-6) that:

"Regional Council will recognise codes of practice and other good practice initiatives in one or more of the following ways:

- (i) preparing rules that give favourable treatment to activities complying with the code of practice or other good practice initiatives."*

A number of rules in Part II of the Plan made reference to particular codes, standards or guidelines [eg Code of Practice for Fertiliser Use (NZ Manufacturers Research Association 2002), Rule 13-2; Code of Practice for the Design and Management of On-site Wastewater Systems, Rule 13-11; A Guide to the Management of Cleanfills (Ministry for the Environment, 2002), Rule 13-19; NZ Standard 4411:2001 Environmental Standard for Drilling of Soil and Rock, Rule 15-4; Environmental Code of Practice for River Works, Regional Council April 2007, Rule 16-4]. As rules have the force and effect of a regulation in law, it follows that such rules must provide certainty. Clarification is sought as to how these codes, standards or guidelines are to be applied. Will they form part of the 'One Plan' and therefore be subject to due process (under the RMA 1st Schedule) every time the code or standard is revised? Who assesses whether compliance with the specified codes, guidelines or standards are achieved?

Council seeks the following decision from Regional Council

- (a) Redraft the above provisions in compliance with Part 3 of the First Schedule to the RMA.
- (b) Amendment to relevant provisions to ensure that the use of codes of practice, standards or guidelines as elements of rule compliance are lawful, enforceable and certain in terms of both interpretation and application, or otherwise remove them from the Plan (Part II).
- (c) That the Environmental Code of Practice for River Works is enlarged to allow District Councils to function under it. The same work undertaken by District Councils is largely at the edge of the river and has a lower environmental impact compared with the major work carried out by Regional Council. The Code of Practice also requires enlargement to include the upper Whanganui River as well be expanded to include bridge work.
- (d) That a Code of Practice be developed for farmers relative to activity and land use type.

Policy 2.2: Consent Duration

- (a) There is little certainty in this Policy and it does not support Objective 2-1. No certainty is given to an applicant as to the likely consent duration. Policy 2-2(b) states that expiry dates will be set to common catchment expiry or review dates. The need for a common catchment expiry date is not unnecessary if the Plan contains robust policies and rules. Policy 2-2(b) and Policy 2-3 do not distinguish between private users and activities managed by the TAs for the public good. The activities managed by the TAs are recognised as being of Regional importance in Policy 3-1, are for the public good, and are required to be carried out as a matter of statute (principally, the LGA and Public Health Act). Such activities should not be subject to a review or renewal process whereby allocation of resources is sought

concurrently by a number of different parties, as would occur with the common catchment expiry and review dates.

- (b) The common catchment expiry date is likely to be costly for applicants and consent holders and divisive for the communities involved. The applicant costs for resource consents varies from a minimal cost of \$20,000 up to in excess of a \$0.5 million. This makes it prohibitive for infrastructural capital works when the consents are for a short duration. The uncertainty and the cost on the community is an additional unnecessary burden. Consent duration for community infrastructure need to be for a considerable period, not less than 35 years.

Council seeks the following decision from Regional Council

- (a) Withdraw the plan unless an alternative mechanism can be identified to resolve the issue; and amend
- (b) Policy 2-2 to provide indicative consent terms for common activities. For all community infrastructure recognised under Policy 3-1, the default consent duration is to be 35 years with review of consent conditions throughout the term of the consent; and amend Policy 2-2(b) to read:

"Unless the application is by a local Authority for an infrastructure activity identified under Policy 3-1, consent expiry dates will be set to the closest common catchment expiry or review date to the date identified in (a)"; and

- (c) Delete Policy 2-2(c)(iv);

- (d) Amend Policy 2-2(c)(vi) to read:

"in the case of existing activities, whether there is a good or poor compliance history relating to environmental effects for that same activity"; and

- (e) Amend Policy 2-3(c) to read:

"reviewing the conditions of a consent at the same time as review of other consents within the same water management zone – for example, at a common catchment expiry or review date, unless the consent is for an infrastructure activity identified under Policy 3-1".

Policy 2-2(c) (iv) Compliance History

Policy 2-2(c)(vi) states that a consent holder's compliance history will affect the consent duration. If compliance history is to be used to determine duration, then there needs to be a distinction between administrative and environmental non-compliance. Reference to the consent holder implies that, for example, a poor compliance history at one of the TA's sites will impact the consent duration for all sites. The consideration of compliance history needs to be specific to the activity being consented, not the consent holder.

The Council seeks the following decision from the Regional Council

- (a) The consideration of compliance history needs to be specific to the activity being consented, not the consent holder. When considering compliance history only significant environmental effects should be taken into account.
- (b) Council also submits there should be common guidelines of how the compliance of a consent is achieved. There should be certainty about the maintenance of the database and how abatement notices or infringement fines are withdrawn from the process.

- (c) Council would like to engage with Regional Council in the development of compliance methods and measurements or have this removed.

Policy 2-3: Review Clause

Policy 2-3 broadens the scope of the review clause from that specified in s128 of the RMA. Policy 2-3(c) provides for a review at the common catchment expiry or review date. It removes the certainty of resource consent duration.

Council seeks the following decision from Regional Council

Exclude infrastructure and community assets or activities from the review clause (c).

Policy 2.5: Enforcement procedures

This Policy states that abatement notices, infringement notices, enforcement orders or prosecutions will be the options in responding to non-compliances. This does not support the issues or objectives of the proposed plan and is unlikely to lead to improved environmental outcomes. Such action is costly for both the consent authority and the consent holder and does not facilitate a partnership approach between the consent authority and resource users as is indicated elsewhere throughout the proposed plan (eg the non-regulatory methods).

This Policy also does not recognise that there have been many instances where Regional Council staff have incorrectly identified non-compliances and does not recognise the difference between a technical or administrative non-compliance and a non-compliance resulting in a significant adverse environmental effect.

The outcome of Policy 2-5(a) will be to discourage innovative solutions to environmental issues and non-optimisation of treatment outcomes. Applicants will adopt a precautionary approach to the environmental outcomes they are expecting to achieve when applying for resource consent, knowing that if consent is granted, they will have enforcement action taken against them for any minor non-compliances. There comes a point when installation of additional treatment will not result in a benefit to the environment. The expenditure associated with such unnecessary treatment is wasted.

The above notwithstanding, Policy 2-5(b) is supported and is considered adequate for guiding enforcement officers.

Enforcement procedures are completely inconsistent with verbal comments from Regional Council officers that the water quality standards are goals to be achieved over the life of the Plan. If water quality standards are goals, this implies that they will not always be met, especially in the first few years. How will the enforcement procedures be used when the standards are only 'goals'? Ambient levels at times exceed these goals.

A new Policy is required to enable a process whereby consent holders can challenge and, if appropriate, have non-compliance assessments revoked. There have been numerous instances in the past where Regional Council officers have incorrectly assessed activities as non-complying either through an incorrect understanding of the activity, the consent condition being assessed, or attempting to impose a higher standard than required under the consent. The issue is that the entire community has been impacted by Regional Council inability to correctly assess activities as non-complying, not just Council.

At present, the consent holder has no right-of-objection to non-compliance assessments and, although agreement may be reached with the officer that the non-compliance assessment was in error, this is not recorded in Regional Council's consent database. This has significant implications at the time of consent renewal as Regional Council's consent database identifies a compliance history which could impact on consent duration.

The Policy provisions also need to distinguish between a technical or administrative non-compliance which does not result in an adverse environmental effect and non-compliances which result in adverse environmental effect.

Council seeks the following decision from Regional Council

- (a) A new Policy in respect of existing consented community infrastructure is required to provide certainty as to how the introduction of new environmental standards via the proposed plan will impact on existing resource consents. Existing consents have been authorised via a statutory process with, in many cases, the consent holder then investing in significant upgrades in order to achieve consent compliance. If the provisions of the proposed plan were to be imposed on these existing consents, then significant additional investment may be necessary. The consent holders require some certainty that the standard imposed by the proposed plan will not have an immediate impact on rights currently held by way of existing consents.
- (b) Water Quality Standards as set out in the One Plan are goals to be worked towards over the life of the One Plan. Currently the ambient water quality does not meet the standards at certain flows. Any discharge will need to be of greater quality than the receiving environment to meet the One Plan standards. A transitional period is required to implement the One Plan Standards, (given that changes to water quality will take over 30 years to give effect, increasing discharge standards in 10 year bites should be considered). In this regard, Table 16 of Schedule D of Part II of the One Plan is unnecessary. While the water quality standards may be relevant to the preparation of an AEE, it is the effects on receiving environment, which should be assessed.
- (c) Enforcement procedures should not be used for Water Quality Standards.

A new Policy to address point 6.16 (ii) The following is suggested (from HBRC, Section 8.2.8)

Any environmental guidelines introduced in this Regional Plan, or by way of later changes to this Regional Plan, apply to both existing and new resource consent holders. However, in the event that existing consent holders do not comply with new environmental standards (introduced by way of rules), they will be given a period of time within which to achieve compliance. Any such period of time will be decided after discussion with the consent holder, but will generally be in the order of 5 to 10 years, or at the time of granting a new consent upon expiry.

The following factors will be taken into account when deciding an appropriate timeframe for any required improvement:

- (a) *The degree of non-compliance with the new standards.*
- (b) *The degree of adverse effects on the environment caused by non-compliance with the new standards.*
- (c) *The availability of technology which will allow the new standards to be met, and*
- (d) *The financial implications of meeting the new standards.*

It is important to note that the Regional Council cannot review the conditions of existing resource consents to recognise new environmental standards, unless the standards are introduced by way of rules in a Plan in accordance with Section 128 (1) (b) of the RMA or the resource consent expressly allows such a review.

Chapter 3: Infrastructure, Energy and Waste

The One Plan has identified "infrastructure" but the definition of infrastructure does not encompass all of the community infrastructure assets. In particular it does not appear to include all components of the infrastructure and excludes solid waste services and does not specifically include stormwater networks. Regional Council has been very explicit when describing hydro-electric infrastructure but much more general around other infrastructure.

The Ruapehu area has a significant number of the hydro electrical power takes in the North Island. When in the same area as communities, both compete for the available water. In such areas water supply takes should be given priority over commercial hydroelectric generation as there are alternative electrical generation options. It is unfortunate to be having to 'compete' with other important users at all.

- (a) The One Plan also identifies Critical Infrastructure, but specifically excludes the service deliver ie reticulation network system, and roading networks. The Regional Land Transport Strategy excludes most roads within the Ruapehu District. Infrastructure also does not refer to the "Life Lines" of communities that TA's and Regional Council spent considerable time developing.
- (b) The provisions made for identifying infrastructure as being of national and Regional significance, recognising the benefits of infrastructure, and for managing the adverse effects of infrastructure on the environment are supported. The issues, objectives and policies relating to infrastructure are vitally important in order for TAs to fulfil their statutory responsibilities under the Local Government and Public Health Acts. The Council is in full support of the critical role of infrastructure in supporting the local communities being identified and provided for in the Regional Policy Statement.
- (c) Council's submission relates to the fact that the definition of infrastructure in the proposed plan and, in particular, Policy 3-1, only recognises some infrastructure assets, and needs to be widened to include all assets supporting communities.

Insofar as the One Plan does not address the above matters, Council submits that the One Plan:

- Will not promote the efficient management of the maintenance and construction of District Council infrastructure in the Region and will therefore not achieve the purpose of the RMA consistent with Part II and other provisions of the RMA;
- Will, as a result, not meet the reasonably foreseeable needs of future generations; and
- Does not represent the most appropriate means of achieving the purpose of the RMA, having regard to the efficiency and effectiveness of other available means.

Council seeks the following decision from Regional Council

Council seeks the One Plan be amended and adopted subject to the recognition of all Council infrastructure and the maintenance as of Regional importance.

- (a) Council seeks to have the description of infrastructure and critical infrastructure amended to include:
 - **Solid Waste Services:** The Solid Waste Services and Infrastructure include the collection of both refuse, and material for recycling from the community. Infrastructure is processing plant, including composting, cleanfills, transfer stations and resource recovery facilities, which are owned or administered by the Council.

- Stormwater Network: A network of open drains and pipes which conveys Stormwater, including Flood Protection Management by TAs.
 - All the roading network developed and maintained by District Councils is of Regional importance. The roading infrastructure components include the side slopes, batters, associated water courses, carriageway, bridges and culverts, berm, land and fill.
 - Water Supply Network: The collection, conduction, treatment, storage, piped networks and associated structures that provide water to the public.
 - Wastewater Network: The reticulation, treatment, storage disposal structures, and pipe networks that service the public.
 - Infrastructure identified in the Regional Life Lines' study should be recognised as part of the definition of Infrastructure, and the ability of District Councils to maintain these in emergencies needs to be recognised in the One Plan.
- (b) A Council road should not fall under the definition of 'private property' as it is owned and maintained for the public benefit of the communities which Council service. Roads are public property and should be considered as a single unit.
- (c) There must be a transparent relationship between the solid waste facilities implementation of the government's Waste Strategy 2002 and its subsequent policies and the community good.
- (d) Community assets, such as water supply are for the public benefit and should have a higher status than takes for hydro-electric power when decisions around water allocation are considered.

Objective 3.2: Waste Hazardous Substances and Contaminated Sites

This Objective assumes all waste disposal is inherently negative and does not recognise the cost of waste minimisation initiatives nor the ability to manage the potential environmental effects of waste disposal. Such an approach does not recognise that waste minimisation can be extremely costly, recycling and reuse can be resource intensive and responsible waste management and disposal can be conducted in a manner which does not have any significant adverse environmental effects. Depending on the interpretation, Objective 3-2 may extend to include wastewater. If this is the case, Objective 3-2(i) provides a mandate for Regional Council to proceed "up the pipe" in terms of addressing inflow and infiltration issues.

Council seeks the following decision from Regional Council

An amendment is necessary for Objective 3-2 so that it relates to solid waste only and explicitly excludes water and wastewater minimisation.

Policy 3-6: Waste Policy Hierarchy

This Policy establishes the waste hierarchy of reduce, reuse, recycle, recover and disposal of residual waste. This is consistent with the local government approach and the New Zealand Waste Strategy. However, the Policy refers to solid, liquid, gas and sludge wastes and therefore is likely to be used to promote reduction in wastewater (particularly inflow and infiltration) as well as to promote reduction in solid waste.

Council seeks the following decision from Regional Council

The following amendments to be made:

1. Issue 3-2 be amended to read:

"Inappropriate waste management, disposal and use of hazardous substances can potentially result in: ..."

2. Policy 3-6 be amended to read:

"Wastes shall be managed in accordance with the following hierarchy"

3. Policy 3-7 be amended to read:

"An assessment shall be required, as part of the consent information requirements for all discharges of solid waste, of.... "

4. The glossary definition of waste be amended to read:

"Waste means solid or hazardous substances that are disposed of or intended to be disposed of"

Policy 3-7: Consent information

This Policy sets requirements for consent applications for all discharges to air, land, water and the coastal marine area. Any discharge consent application will require:

- Details of how waste will be reduced, reused, etc.
- Details of any hazardous substances present in the discharge and any alternatives to those substances.

This is likely to place increasing pressure on TAs to reduce inflow and infiltration into the sewer networks. In addition, consents for landfill sites will need to incorporate details of solid waste minimisation strategies being employed by TAs.

Council seeks the following decision from Regional Council

It is recommended that an amendment be sought so that Policy 3-7 applies to consent applications *where there are adverse environmental effects arising from the discharge.*

Policy 3-9: LandFill Management

This Policy relates to landfill management and states that landfills shall be designed, constructed, managed, operated, remediated and monitored in line with national environmental standards. The Policy then lists a number of publications to be considered including the CAE landfill guidelines and a suite of MFE guidelines. It is considered that the Policy is sufficient if it refers to "appropriate guidelines and national environmental standards" and does not need to list each standard or guideline. The guidelines will be applied only where appropriate and relevant to the type and scale of activity proposed, and that they are not to become defacto rules. Guidelines are called "guidelines" as they are intended to provide guidance as how best to carry out a generic type of activity. For a variety of legitimate reasons, a specific activity may be carried out in an environmentally acceptable manner which is not consistent with guideline documents. Enforcement of the guideline provisions by way of Policy 3-9 is not an appropriate approach.

Further, there are errors in the list of guidelines and national environmental standards.

- The document referred to in (a) is entitled "Module 2: Hazardous Waste Guidelines. Landfill Waste Acceptance Criteria and Landfill Classification"
- The document referred to in (c) is a supporting technical report for the "Module 2: Hazardous Waste Guidelines. Landfill Waste Acceptance Criteria and Landfill Classification". As such it is not a relevant document to be referred to as all guideline recommendations are included in (a).
- The Centre for Advanced Engineering "Landfill Guidelines" are the most definitive guidelines available in New Zealand for the design, management, operation and post-closure care of landfills, yet this is not included in Policy 3-9.
- Ministry for the Environment guidelines on Management of Cleanfills (ME418), Management of Closing and Closed Landfills (ME390), and Landfill Consent Conditions (ME389) are not included in Policy 3-9, yet are relevant to numerous sites throughout the region.

The concern with listing standards and guidelines is that it does not allow for new standards and guidelines to be considered. Further, the list of documents includes reference to Class A Landfill Waste Acceptance Criteria but not Class B Landfill Waste Acceptance Criteria. Given that the majority of existing landfills in the Region would be classified as Class B, this needs to be included.

The Council seeks the following decision from the Regional Council

- (a) This Policy needs to be prefaced with a statement to the effect of "*Landfills shall generally be designed, constructed, managed, operated, remediated and monitored in line with appropriate guidelines and national environmental standards, taking in to account the applicability of these guidelines and standards in relation to the type and scale of activity proposed*"
- (b) Class B landfills should not be specifically excluded from this guideline and standards list.
- (c) The list of guidelines and national standards either be deleted or included only as an explanatory note. If included, the list of guidelines and national standards be amended to read:
 - (a) *Centre for Advanced Engineering, Landfill Guidelines, April 2000*
 - (b) *Ministry for the Environment, Module 1: Hazardous Waste Guidelines. Identification and Record Keeping, June 2002, Ref ME367*
 - (c) *Ministry for the Environment, Module 2: Hazardous Waste Guidelines. Landfill Waste Acceptance Criteria and Landfill Classification, May 2004, Ref ME510*
 - (d) *Ministry for the Environment, A Guide to the Management of Cleanfills. January 2002. ME 418*
 - (e) *Ministry for the Environment, A Guide to the Management of Closing and Closed Landfills in New Zealand, May 2001, ME 390*
 - (f) *Ministry for the Environment, Guide to Landfill Consent Conditions, May 2001, ME 389*

(g) Ministry for the Environment, Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, September 2001

(h) Landfill gas collection and destruction or reuse as per the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins and Other Toxics) Regulations 2004.

Policy 3-12 Identification and Management of Priority Contaminated Land

The One Plan states that Regional Council and TAs will identify contaminated land by 2008. No consideration to who pay or the cost is noted in the One Plan. Regional Council are committed to further collections of old agrichemicals. Questions remain surrounding MFE's ongoing commitment to this collection. There are no details provided which allow Council to assess how the contaminated land will be identified, method to fund, resource and implementation timeframes. Council cannot assess the impact of this Policy on the communities, and if they are required to fund such projects.

Council seeks the following decision from Regional Council

- (a) That Regional Council provide transparency in their identification methods, resources for the project, timeframes for implementation, and fund for the project.
- (b) That Regional Council continue with the collection of old agrichemicals.

Chapter 4: Te Ao Maori

Policy 4-1 sets out how hapu and iwi can be involved in Policy development and consent processing. In particular there is a clause (f) requiring Regional Council to recognise and to take account of iwi management plans lodged with Council and clause (g) involvement in consent decision-making processes. Questions arise as to what the policies mean and what effect they will have on resource management decision making. For example:

- What is an 'iwi management plan, and what quality does it need to reach'?
- How will an 'iwi management plan' lodged with the Council be recognised and taken into account, particularly where some provisions clearly conflict with publicly adopted District Plans?
- Will an 'iwi management plan' be subject to a consultation and submission process, including local councils prior to being "lodged" with the Council?
- What happens if more than one 'iwi management plan' is lodged with the Council and their provisions are not in accord?
- What involvement in consent decision making processes by iwi is envisaged?

Council seeks the following decision from Regional Council

- (a) Iwi management plans adopted by Maori Trust Boards be received and considered but occupy a regulatory position below the District Plan.
- (b) Redraft the provisions of Chapter 4 so that roles and responsibilities of tangata whenua in the RMA consent process are clearly defined, certain and specified in the Plan.

Chapter 5 Land

There are a number of concerns with Chapter 5.

The region has 300,000 hectares of hill country land at risk of moderate-severe erosion. A significant area of land marked as appropriate for retirement is in the Ruapehu District. The social and economic effects of retiring land has not been assessed at a community or District level. Land use change is a major structural economic change and the future impact on livelihoods has not been considered.

Policy 5-1 relates to development of farm plans or work plans in highly erodible land areas. The highly erodible areas are defined in Schedule A. Council is also concerned about the practicalities of farm plans. Regional Council has verbally stated to Council that land owners will not be worse off by removing farmland for retirement as other land productivity will increase to off set the cost. The science behind the assertion has not been presented. There is also concern that there are not the resources to give effect to the demand for thousands of farm plans. This will create a need for resource consents to carry out the activity.

There appears to be no analysis of the direct cost and benefits of retirement completed, nor are there opportunity costs and benefits and maintenance costs associated with the implementation of such a plan. There is no assessment of the cost of retirement, the cost to support industry such as providers of trees, fencing etc and ongoing monitoring costs and benefits. This suggests a Section 32 analysis has not been undertaken. It also implies that the governing legislation, ie the LGA and RMA purpose has been overlooked in the development of this Policy. Regional Council is creating a bureaucratic resource consent approach to doing business and adding costs.

This chapter also effects infrastructure development, such as road construction, upgrades or land development, aggregate extraction and recontouring of land.

The trigger for highly erodible land (20° slope) is too blunt and needs to be reconsidered, particularly as one of the major triggers of erosion is the parent rock and soil stress zone.

Policy 5.3 is for the regulation of vegetation clearance and land disturbances, including excavation, filling and soil cultivation shall generally not be allowed in Highly Erodible Land. Given that Council has concerns about the sweeping definition of Highly Erodible Land, this Policy is not supported.

Policy 5-4 states that significant land disturbance on non-highly erodible land shall be regulated to avoid any significant increases in risk of erosion, land instability or sediment discharges to water. There is concern regarding the term "shall be regulated" and what this will mean to roading activities, particularly with respect to the turbidity levels set in the water quality standards of Schedule D. It implies that all Stormwater will require treatment before discharge.

Council accepts when working on roads, it should undertake sediment control by retention dams, which would form part of best practice guidelines when working on roads. Council does not accept the need to treat Stormwater before discharging from a culvert in rural areas. In urban areas where the hard stand is significant and is subject to high traffic volumes then it is reasonable to treat the first flush at low flows in sensitive receiving environments.

Policy 5-5 makes provision for codes of practice and other sector based initiatives to be supported and recognised within the regulatory framework.

Defining Highly Erodible land needs to be accomplished in a more robust and scientific manner. The degree of slope is only one aspect of land's susceptibility to be highly erodible. The only way for Highly Erodible Land to be identified and for rules to be applied

is to map land at a paddock scale (approximately 1:5,000), for priority catchments first, then apply the rules based on this detailed, ground tested information. Adequate mapping and evaluation of land resources would take a lot of time given the scarce amount of money and appropriately skilled human resources available to Regional Council.

The Glossary defines Highly Erodable land as land mapped as Highly Erodable Land. This is a nonsensical definition and is a circular argument.

Council seeks the following decision from Regional Council

- (a) Council is concerned that the retiring land in the Ruapehu District will affect the viability of the individual farmer and support industries, the local economy and the rating base.
- (b) Council submits that landowners receive significant benefits from Farm Plans such as not needing to apply for resource consents. This should be used to offset the price of developing the whole Farm Plan rather than burdening ratepayers with the cost of the plan. Alternatively a loan or Regional Council rating subsidy could be offered to attract farmers to undertake Whole Farm Plans.
- (c) Farm Plans need to be introduced over time to match resource levels. Farmers who do not receive this resource allocation should not be penalised. Phasing in of Farm Plans needs to be undertaken under a realistic time frame, without triggering resource consent requirements.
- (d) Remove Policy 5.3 until a more appropriate definition of Highly Erodable Land is available to assess the effect on the four well beings of the Ruapehu communities under the LGA.
- (e) Stormwater does not need treating to first flush standards in a rural area.
- (f) Councils are exempt from application of resource consents for two years to fund the development a code of practice for roading maintenance works to enable these activities to be allowed as permitted activities for their particular parent types.
- (g) That Highly Erodable Land is defined in a scientific and robust manner, and the slope is not used as a definition as it is too blunt an instrument.
- (h) The Map depicting Highly Erodable Land is not of sufficient quality to be useful and must be withdrawn.

More Discussion on Highly Erodable Land in relation to Transport is under the Rules Section.

Chapter 6 – Water, Objectives

Objective 6-1: Water Management Values: The One Plan does not provide a definition of the life-supporting capacity.

Objective 6-2: Water Quality, 'The objectives of surface water quality is managed to ensure that the water quality is maintained or enhanced'. The values of the water may be different to the life supporting capacity and, in reality these may not related.

Objective 6-2: (a) (i) is unclear in its meaning and Objective 6-2 (a) (ii) 'Water quality is enhance in those rivers where the existing water quality is not sufficient to support the values of the river', needs a timeframe over which these are to be achieved. The water quality standards established in Schedule D will require significant investment in treatment technology, alternative receiving environments and significant changes in land use before

they can be achieved. For this reason, a timeframe over which Objectives 6-1 and 6-2 are to be achieved is essential.

Earlier submissions in respect of Schedule D are repeated here:

- (a) The overall objective must be that improvement in environmental performance is achieved over time. The Schedule D Table 16 standards should be used as a guide only not applied disregarding whether environmental benefit is achieved.
- (b) In this regard, Table 16 of Schedule D of Part 2 of the One Plan is unnecessary. While the water quality standards may be relevant to the preparation of an AEE, it is the effects of any discharge on the receiving environment which should be assessed.

Council has concern over the content of Schedule D and the implications this has for provision of vital community infrastructure recognised under Policy 3-1 and the implications for community sustainability. Council does not debate the science underpinning the establishment of the water quality standards in Schedule D, but is concerned that the "ideal balance between using natural resources for economic and social wellbeing, while keeping the environment in good health" (One Plan, p 1-1) has not been achieved. The Council is concerned that via Schedule D the Regional Council is attempting to define a receiving environment in advance thus circumventing the very assessment required under s104 RMA. In particular, Council is concerned that:

- No timeframe has been allowed for moving from the current situation to achievement of the water quality standards specified in Schedule D.
- There is no recognition that some of the water quality standards in Schedule D may not be achievable due to natural conditions and/or diffuse discharges.
- The cost benefit analysis provided in the s32 report is simplistic and is not based on accurate information regarding the likely costs of upgrading and/or providing stormwater and wastewater treatment necessary to meet the standards.

Policy 6-4: Enhancement where water quality standards are not met

This Policy means that, if the upstream water quality does not meet the water quality standard, any point source discharges must be sufficiently clean and in sufficient volumes such that, after reasonable mixing, the river or stream meets the water quality standards. In effect, it states that discharges need to "clean up" the river. This approach is not "effects based" and is inefficient and inequitable. There needs to be an equivalence of investment and progression towards acceptable environmental outcomes for both diffuse and point source discharges.

Objective 6-3 (a) (1) 'Minimum flow and allocation regimes are set for the purpose of maintaining the existing life-supporting capacity of rivers and providing for other values of rivers as necessary'. This Objective appears as a catch all and provides no certainty of what the allocation level is, or if the values of Schedule D will be applied or new ones developed later. The wording provides no certainty to resource users and consent holders as to the environmental values to be protected and provided for.

Objective 6-3(a) (ii) 'In times of water shortage, takes are restricted to those that are essential to the health or safety of people, communities or stock, and other takes are ceased'.

Objective 6-3(c) requires both groundwater and surface water to be used efficiently. This is supported in general, although it is considered that the Regional Council is using a simplistic definition of efficiency. A more comprehensive definition of efficiency is necessary when determining water allocation.

The Global Water Partnership makes a distinction between technical efficiency and allocative efficiency.

- Technical efficiency in terms of water is about minimising losses and ensuring that, for any given use, the amount of water required is minimised.
- Allocative efficiency is about the allocation of available water resources among competing uses, so as to maximise the net benefits from their use.

In the context of community water schemes, the distinction between technical efficiency and allocative efficiency is important. A technical efficiency approach may force a community to invest significant amounts in pipe renewals to reduce losses from say, 25% to 15%. If this is a small community, the total water abstracted from the water use may be no more than, say 500 m³/day. The investment in pipe renewals would therefore result in 50 m³/day no longer being lost through pipe leakage and available for allocation to other users. Investing in pipe renewal would only be efficient from an allocative efficiency approach if the benefits that could be realised by someone else having access to that 50 m³/day offset the cost to the community of the pipe renewal programme.

Council seeks the following decision from Regional Council

- (a) A definition of 'Life – Supporting' Capacity is necessary under Objective 6.1.
- (b) The principal of Objective 6.2 is supported but it is submitted that life supporting capacity and water quality values may not be the same.
- (c) The overall objective must be that improvement in environmental performance is achieved over time. The Schedule D Table 16 standards should be used as a guide only not applied disregarding whether environmental benefit is achieved. In this regard, Table 16 of Schedule D of Part 2 of the One Plan is unnecessary. While the water quality standards may be relevant to the preparation of an AEE, it is the effects of any discharge on the receiving environment which should be assessed.
- (d) Council submits that the allocation level is set with the values of Scheduled D allow for seasonality and time to implement any changes if this allocation level remains. The words "and providing for other values of rivers as necessary" from Objective 6-3(a)(i); and amend
- (e) Objective 6-3(c) to provide for the wider definition of efficiency described above
- (f) Council supports this Objective 6.3 (a) (ii) and states under the Health Act, Councils are required to provide for their communities. It is also submitted that minimum takes must be set at a higher rate per day and allow for water take seasonality.
- (g) Amend Policy 6-4 (a) to read:

"In each case where the existing water quality does not meet the relevant water quality standard within a water management zone, as shown in Schedule D, activities shall be managed in a manner which:

- (i) *maintains or improves the existing water quality.*
- (ii) *has regard to the likely effect of the activity on the values identified for the relevant water management zone."*

Policy 6.1: Water Management Zones and Values

Each catchment has been divide into water management zones and values as reflected in Schedule D. These zones are very coarse and do not reflect the micro climates within each different ecological zone. There is no recognition that some of the water quality standards in Schedule D may not be achievable due to natural conditions and/or diffuse discharges.

Clarification is sought as to the level of data and information required before it will be considered that the existing water quality is known and therefore Policy 6-5 no longer applies and one of either Policy 6-3 or 6-4 will apply. The technical science report prepared as a background to the proposed plan has included reference to water quality at certain sites when only one result is available (eg with QMCI). Will a single sample be considered sufficient by the Regional Council for the existing water quality to be known? This is not considered acceptable by the TAs given the natural variations that may occur and the significant policy implications (refer to Policy 6-3 and 6-4) resulting from the determination as to whether or not the existing water quality meets the relevant standards.

Council seeks the following decision from Regional Council

The application of zoning triggers different water quality values to be met. This is onerous across large water management zones. Rewrite Policy 6-3 and Policies 6-4 and 6-5 so that any performance standards set are related to effects, are used only as a guide and are applied recognising the characteristics of the specific discharge, its location within the catchment and the mixing zone to be applied based on these characteristics. Council seeks clarification that the science applied across the region is appropriate in all cases.

Policy 6-4: Water Quality

This Policy relates to enhancement where water quality standards are not met. This has significant implications for all discharges (stormwater and wastewater) depending on the interpretation. Clause (a) states:

"In each case where the existing water quality does not meet the relevant water quality standard within a water management zone, as shown in Schedule D, activities shall be managed in a manner which enhances water quality in order to meet the water quality standard for the management zone shown in Schedule D"

The meaning of this Policy is unclear, and leaves certain questions unanswered. Does the Policy mean that the discharge actually has to "clean up" the river so that standards are met? What is the timeframe? Will the current interpretation of s104D of the RMA prevail.

Table 13.1, page 13-3 sets out the target water management zones where management of intensive farming land-use activities will be specifically controlled. The table includes the dates after which the provisions of the One Plan that relate to these water management zones come into force.

Stormwater needs to be specifically excluded from the Water Quality Standards of Schedule D.

Stormwater will be managed at any roading site to ensure reduce the sediment discharge of land disturbance works on public land to turbidity units of <10 NTU greater than the receiving environment. No other parameters will need to be measured in relation to stormwater except under high urban zones.

Stormwater in urban zones with a hardstand catchment greater than 10 km² shall have first flush facilities installed for half median stream flow events. There should be a reasonable

timeframe to implement the clean-up of stormwater discharges within communities with high quality receiving environment only.

A priority list eg, carparks, catchment area of road surface, industry areas etc need to be written. This will also need to be linked to river size and flow. Discharge for wastewater also needs a timeframe of implementation. This should be related to the Farm Plans timeframe.

Council seeks the following decision from Regional Council

- (a) An amendment to this Policy is necessary to:
 - Clarify that the discharge will not have to “clean-up” the receiving environment.
 - And to include timeframes for improvements in water quality of ten year intervals.
- (b) Remove Stormwater from the Water Quality Standards of Schedule D.
- (c) That stormwater treatment is only required in urban areas where the discharge is into a very small stream during low flows, and in areas of high hydrocarbon accumulation in carparks for the first flush of rain.
- (d) There should be a reasonable timeframe to implement the clean-up of stormwater discharges within communities with high quality receiving environment.
- (d) A priority list should be developed for each township and timeframes established in relation to affordability of the community.
- (e) The discharge of wastewater also requires a time frame before the One Plan Water Quality Standards are brought into effect.
- (f) Stormwater in urban zones with a new hardstand carpark greater than 800 m² shall have first flush facilities installed for half median stream flow events, into high quality streams or rivers where there is demonstrated impact.
- (g) There should be a reasonable timeframe to implement the clean-up of stormwater discharges within communities with high quality receiving environment only, with a demonstrated impact.

Policy 6-5 Management of activities in areas where existing water quality is unknown.

Council seeks the following decision from Regional Council

The points from above are repeated for Policy 6.5.

Land Use Activities Effecting Water Quality

There is no clear definition of intensive farm use activities for this Policy; only certain catchments have been singled out.

Council seeks the following decision from Regional Council

Policy 6.7 should be removed from the One Plan.

Policy 6-8

This Policy relates to Point Source Discharges to Water. This is a significant policy, and there a number of questions regarding this Policy that need clarification.

Policy 6-8(a) is conditionally supported, but;

- (i) is inconsistent with Policies 6-3 and 6-4. Policy 6-8(a)(i) suggests that a minor effect on the water management values may be acceptable, however, Policies 6-3 and 6-4 indicate that no breach of the water quality standards will be tolerated.
- (ii) is uncertain and requires clarification as to how this assessment will be made. How will the relative loadings from each discharge be allocated? Will all discharges need to have similar levels of improvement or will one be singled out? How will this be determined in the context of common catchment expiry and review dates?
- Who determines what is "best management practices" as referred to in Policy 6-8(a)(iii). Will this force a level of investment in technology that is unsustainable for some communities?
- Who determines what a reasonable time period is to achieve improvements?

The need for Policy 6-8(b) is unclear given that the contents of Policy 6-8(a) are only matters which the consent Authority will have regard to, meaning that compliance with these matters is not essential. This notwithstanding, Policy 6-8(b) is uncertain and requires clarification as to whether all or only one of the matters in 6-8(b)(i) to 6-8(b)(iv) are to be met.

Policy 6-8(b)(i) requires amendment to allow discharges of a temporary nature which are necessary for undertaking improvements and upgrades including trials, not just maintenance work (eg the need to empty and/or bypass treatment ponds).

Policy 6-8(b)(iv) is uncertain and requires clarification as to what may be considered "exceptional circumstances".

Council seeks the following decision from Regional Council

- (a) Policy 6-8 needs to be clarified to include what the discharge that "tips the scales" is and how this will be interpreted in the context of common catchment expiry dates. Best practice needs to be determined, particularly in terms of community wastewater, by those effected and the communities ability to pay.
- (b) (b)(i) 'at minimum' be amended so that it includes allowance for improvement works (eg emptying/bypassing a pond).
- (c) The Policy needs to be amended to address all the above matters.

Policy 6-9 Point Source Discharge to Land

Where land has been set a side specifically for the disposal of waste and wastewater this policy standards should not apply. Policy 6-9(b) requires that discharges do not render soil unsafe for agricultural or domestic use. This is reasonable when such uses are reasonably foreseen. However, often disposal areas are set aside for this specific purpose (and may be designated as such in the District Plan), and the future use of the land for domestic or agricultural purposes is not anticipated. To design the disposal areas for uses which are not reasonably foreseen is considered unnecessary and an inefficient use of resources. The meaning of Policy(c) is unclear and requires clarification.

Council seeks the following decision from Regional Council

Where land has been set aside specifically for the disposal of waste and wastewater' Policy 6.9 should not apply and the One Plan needs to be amended to reflect this. It is also too onerous to map out future disposal point.

Policy 6-10: Options for Discharges to Surface Water and Land

This Policy is unnecessary as the applicant has the right to apply for both land and water discharges concurrently. Council does not feel Regional Council has the right to instruct the applicant to implement a seasonal discharge regime. Clarification of the intended use of policy is required. If 6-10(c) means that the consent Authority expects two separate treatment processes, each designed for the different receiving environments, then this represents an inefficient use of resources and unnecessary costs for the communities involved. It is also noted that, as most of the water quality standards are triggered at three times median flow, the use of disposal to land to achieve nutrient compliance in the water courses will no longer be an appropriate solution (as nutrient standards in the water course must essentially be met all year round, not just during low flows).

Council seeks the following decision from Regional Council

- (a) Remove Policy 6-10 from the One Plan.
- (b) Council repeats the submissions in respect of Schedule D made in respect of Objective 6-1, Objective 6-2, Policy 6-1 and Policy 6-2.

Policy 6-11: Human Sewage Discharge.

This Policy is generally supported but with the words "or approved equivalent" be added to allow for changes in technology.

The Council seeks the following decision from the Regional Council

Add the words "or approved equivalent" to Policy 6-11.

Policy 6-12 Reasonable and Justifiable need for Water

This Policy applies to both groundwater and surfacewater. It is unclear how this will be interpreted where communities have two or more water sources. The Policy will also allow for the amount of water allocated to be altered at the time of consent review as well as renewal.

Clause (c) does not allow for a higher allocation to be determined and has significant implications for community water supplies. Many communities will be facing either significant water use restrictions 365 days per year, or pipe renewal programmes required to meet Policy 6-12(c). This may be unaffordable. Both of these outcomes makes the future sustainability of many communities in the region questionable. It also means that it will be the Regional Council setting the timeframe for reducing water use.

- (a) Policy 6-12(c) has significant implications for community water supplies. Recognition of the role of these supplies via Policy 6-12(c) and Policy 3-1 is acknowledged. However, the reality of Policy 6-12(c) is that many communities will be facing either significant water use restrictions 365 days per year, or that pipe renewal programmes required to meet Policy 6-12(c) may be unaffordable. Both of these outcomes make the future sustainability of many communities in the region questionable.

- (b) It is recognised that there are some communities within the region that have an average use similar to that provided for in Policy 6-12, or that in some cases the allocation of water under Policy 6-12 is greater than currently consented or used. This demonstrates that a “one size fits all” approach does not make sense for the region. If forced to meet the provisions of Policy 6-12, some communities will have to reduce their average water take by up to 50% while other communities will be able to utilise far more water than they currently do.
- (c) Policy 6-12(c) provides for the Regional Council and TA to agree a timeframe in which the existing allocation “shall be reduced to the calculated amount” but does not include any provision for the Regional Council and TA agreeing a reasonable use figure different to the calculated amount.
- (d) The overall approach of Policy 6-12 in attempting to fit a “one size fits all” approach is therefore not supported, and a policy needs to be developed whereby a community’s reasonable use can be determined on a community by community basis.
- (e) If the approach taken in Policy 6-12(c) was to remain, there are some aspects of a community water supply which have not been accounted for and will need to be included. These are:
- Amenity and recreation value uses such as gardens, parks, sports fields, swimming pools,
 - Essential services such as hospitals, medical treatment facilities, schools, educational facilities; correctional facilities, marae,
 - Fire fighting – including fire fighting training.
 - System maintenance, including flushing of pipes.
 - Bulk water supply – eg for tankers supplying water to rural properties when rainwater is insufficient to meet requirements.
 - Treatment plant losses, eg via backwash of filters.
 - Peak events which cause a significant short-term increase in population (eg ski season impact on Ohakune water use; Hui at Ratana Marae).

District Councils are legally obliged to supply communities with water at a certain pressure if providing firefighting water supply is part of the service.

An allocation for industry, livestock and agricultural practices has been set at 20% of the total of domestic needs however as some of our supplies come from rural community schemes the domestic portion is lower than the industrial usage. Considerable effort will be required to collect and collate the data for such communities. Expressing losses as a percentage of total water use is also not considered an appropriate measure. Expression of losses on a per connection or per km of pipe would be a more reliable and appropriate measure. These issues cannot be addressed simply by tinkering with the wording of this Policy.

Council seeks the following decision from Regional Council

- (a) The allocation for water needs to allow for a reasonable use figure to be agreed on a community by community basis between the TA and the Regional Council taking into account future growth and allocation for legitimate community needs listed above.
- (b) There is concern on the level of data and the cost to communities for the collection of the data needed by the One Plan. There must a reasonable timeframe for the collection of this data.
- (c) Policy 6-12(c) be amended to allow for a reasonable use figure to be agreed on a community by community basis between the TA and the Regional Council.
- (d) As a minimum, Policy 6-12(c) be amended to take in to account the other legitimate uses of community water schemes listed above.

Policy 6-13: Efficient Use of Water

This relates to Efficient Use of Water. It includes the following measures:

- Water audits and budgets to check for leakage and water use efficiency.
- Requiring use of, or progressive upgrade to, infrastructure for water distribution that minimises use and loss of water. (This does not recognise that there is an economic level of leakage).
- Enabling the transfer of water permits.
- Raising awareness about water efficiency issues and techniques.
- Installing water metering and telemetry to monitor water use.

It is unclear as to whether or not this Policy is creating a higher standard of efficiency and requiring a higher level of water reduction than Policy 6-12. That is, if Policy 6-12 reasonable use figures are met, will there still be a need to progressively upgrade infrastructure to minimise use and loss of water (Policy 6-13(b)).

As referred to above, a more comprehensive definition of efficiency is necessary when determining water allocation.

The Global Water Partnership makes a distinction between technical efficiency and allocative efficiency:

- Technical efficiency in terms of water is about minimising losses and ensuring that, for any given use, the amount of water required is minimised.
- Allocative efficiency is about the allocation of available water resources among competing uses, so as to maximise the net benefits from their use.

In the context of community water schemes, the distinction between technical efficiency and allocative efficiency is important. A technical efficiency approach may force a community to invest significant amounts in pipe renewals to reduce losses from some, 25% to 15%. If this is a small community, the total water abstracted from the water use may be no more than, some 500 m³/day. The investment in pipe renewals would therefore result in 50 m³/day no longer being lost through pipe leakage and available for allocation to other users. Investing in pipe renewal would only be efficient from an allocative efficiency

approach if the benefits that could be realised by someone else having access to that 50 m³/day offset the cost to the community of the pipe renewal programme.

Policy 6-13 appears to be requiring a continuous reduction in water use, irrespective of the resources required to achieve that reduction.

It is also unclear as to whether Policy 6-13(e) refers to water meters on the abstraction point or universal metering on all connections for a community water supply. If the latter, this is unacceptable in a Regional Policy Statement as it is a policy decision for the TA as to whether or not they require meters on individual connections.

Council seeks the following decision from Regional Council

Policy 6.13 needs to be amendment so that there is a progressive upgrade of the water reticulation networks to minimise losses over time until the 'reasonable needs' as set out in Policy 6-12 are beached.

Policy 6-14 Consideration of Alternative Water Sources.

This Policy states: "*when making decisions on consent applications to take surface water, the opportunity to utilise alternative sources such as groundwater or water storage shall be considered*".

This means that, if applying for renewal of a surfacewater take, Council's will need to provide a detailed assessment of storage / water harvesting options as well as the potential to use groundwater resources instead of surfacewater. This requires any consent applicant to invest significant resources into researching alternatives, irrespective of the scale of the abstraction sought; whether or not the surface water body is under stress; the level of investment already made in surfacewater abstraction and treatment; and the current level of knowledge regarding the lack of alternatives.

Policy 6-14 also means that communities which currently have an option of using either surface ater or groundwater will be forced to use groundwater, irrespective of the costs of supply and/or the quality of the water.

This Policy also expresses a clear preference to groundwater ahead of surfacewater. Will treatability of the water be considered? If other policies sufficiently address allocation mechanisms and environmental effects of abstraction then why does a preference for groundwater need to be expressed?

This Policy could force Council into selecting a water source and the actual storage capacity required. There are already government standards set by the Health Department. Having another party involved could result in direct conflict of requirements and over burden on the community. The Drinking Water Standards set by the Ministry of Health cover this clause adequately; therefore this clause needs to be removed.

Council seeks the following decision from Regional Council

Policy 6-14 be removed or amended so that it only applies to community water supplies recognised under Policy 3-1 if the community's needs exceed the available core allocation.

Policy 6-15 and 6- 16: Surface Water Allocation

There are a significant number of hydro electrical generation takes in the Ruapehu District, which directly impact on the minimum water allocation values.

Council seeks the following decision from Regional Council

Council submits that, whilst valuing highly its hydro-electrical generating business, if forced to prioritise, then community infrastructure is a public good and of higher importance than the hydro electricity generation take. The minimum flows and core allocations as set out in Schedule B shall be assessed after any takes for the community followed then by the hydro-electrical generation, in line with Policy 3-1, Benefits of infrastructure.

Policy 6-18: Supplementary Water allocation

This Policy effectively sets public water supplies as the lowest priority in allocation of supplementary water (as the inference will be that any use of water above that set in Policy 6-12 (250 liters per day) as provisions over this would be considered inefficient and wasteful. This would prevent the provision of a second water supply of over 10% of the allocation.

This would have significant impact on the Ohakune and potentially Raetihi and Rangataua communities that are likely to require a supplementary water supply to cater for growth of the town populations.

Council seeks the following decision from Regional Council

That public water supplies are set as a priority in allocation of supplementary water and not limited to one source.

Policy 6-19: Apportioning, restricting and suspending takes in times of low flow

During low flows Regional Council has restricted the total public water consumption to 250 liters per person per day for domestic needs at the time of granting the resource consent. This does not take into account growth since the date of the consent application.

At the time of writing this submission only one stream in the Ruapehu District has been assessed for low flow water allocation for the water supply. Assessment of low flow water allocation impacts on the community cannot be undertaken in relation to the four wellbeings. This assessment will need to be undertaken before this Policy can be implemented.

Council seeks the following decision from Regional Council

Allocation needs to take into account growth. Policy 6-19 be withdrawn until such time as a proper assessment has been undertaken in all rivers in Ruapehu effected by water supply takes.

Policy 6-23 Ground Water Management Zones

Schedule C does not provide sufficient information for Council to assess the abstraction of water from the zones under pressure.

Council seeks the following decision from Regional Council

Policy 6-23 be withdrawn until such time as a proper assessment has been undertaken for those zones under pressure as stated in Schedule C.

Effects of groundwater takes on other ground water takes

Policy 6-24(d) may require TAs to supply neighbouring properties when developing a groundwater bore for community water supply. This could have potential implications for the Water Supply Authority under the New Zealand Drinking Water Standards if treatment of groundwater is required but the treatment plant is located remotely from the bore. Clause (d) of Policy 6-24 could result in the Water Supply Authority providing non-potable water in breach of the NZ Drinking Water Standards, or having to invest in additional pipework to and from the treatment plant.

Council seeks the following decision from Regional Council

Delete Policy 6-24(d).

Policy 6-29: Activities in Waterbodies within a flood control or drainage scheme

This Policy protects the ability to manage for flood control within the flood control or drainage schemes as shown in Schedule I. The stop bank in Taumarunui has not been included in this map and should be. The map in Schedule I shows Regional Council schemes and does not include District Council drainage schemes.

Council seeks the following decision from Regional Council

- (a) The Taumarunui stop bank and associated drainage system should be included in this map.
- (b) Policy 6-29 recognises flood control or drainage schemes as shown in Schedule I. The schemes shown in Schedule I are managed by the Regional Council and do not include any schemes managed by TAs. It is unclear why schemes managed by the Regional Council should be managed to maintain their drainage function, while TAschemes are not provided the same recognition.

Policy 6-30: Activities in Waterbodies with other values

Policy 6-30 (b) provides consent applicants with the option of making a financial contribution to offset or compensate for adverse effects in accordance with the Policies in chapter 18.

Council seeks the following decision from Regional Council

Essential infrastructure is public good and should not be burdened with additional costs.

Policy 6-32: Gravel Extraction

Policy 6.32 limits gravel extraction from rivers with known volumes, estimated volumes or where gravel extraction does not exceed natural replenishment, except where extraction is necessary to decrease the risk of flooding or damage to structures.

Table 6.4 shows annual allocable volumes of gravel-estimated allocations. The majority of the District river systems fall within this table. This Policy essentially means a consent will be required in all circumstances. Given the cost of consents, Council commonly does not removal gravels unless it has a high need. This means that, in some locations, the gravel beds will grow and force the river to erode into farm land.

Council is concerned that Policy 6-32, concerning gravel extraction, is limiting in its extent and misplaced in terms of its location within the One Plan. Chapter 6 concerns water and in particular water quality and water quantity. Extracting gravel may affect water quality but the specification of annual volumes of gravel available for extraction is not a water

matter at all. As well as being relocated to a more appropriate section of the Plan (eg Chapters 3 or 5), 'gravel extraction' should to be expanded to encompass the more fundamental issue of the need for a 'Regional aggregate strategy'. Energy, water and aggregates are significant resource management issues facing the Manawatu-Wanganui Region as well as other regions in New Zealand. Water, and to a lesser extent energy, and infrastructure are addressed in the One Plan but there is no mention of aggregates. TA asset managers are concerned that if gravel extraction from particular reaches of rivers throughout the region is restricted, aggregate will need to be made available, for use in constructing infrastructure or District assets, as close as possible to where it is needed. At the very least an aggregates strategy should to identify the location of high value aggregates (ie where is it? How much is there of it? What quality is it?) and give guidance to the TAs as to how these could be protected (from encroachment). If distance to suitable aggregate sources is not limited, the cost of the aggregate and its end use goes up, traffic will congest and the levels of service of roading networks go down, wear and tear on roads increases, vehicle emissions are unnecessarily adding to greenhouse gases and the consumption of fossil fuels used to transport to aggregate increases.

Council seeks the following decision from Regional Council

- (a) Gravel extraction should be subjected to best practice guidelines and have permitted activity status for short term extraction where Council, in conjunction with the Regional Council and land owners, agree the extraction provides good environmental outcomes.
- (b) That the Environmental Code of Practice for River Works which covers gravel extraction be expanded to include District Council or their agents' extractions.
- (c) Gravel extraction be considered as Regional importance in Policy 3-1 and considered as part of a Regional Aggregate Strategy.

Chapter 7 Living Heritage & Biodiversity

The Proposed One Plan identifies "*Threatened Native Habitats*" as one of its "*big four*" resource management issues in the region to be addressed by the One Plan, and states that the region has lost much of its native habitat and that "*habitat remnants continue to be threatened by land development and by plant and animal pests*". The Plan states (Section 1.3) that the approach to be taken by the Regional Council will be as "*the lead agency for biodiversity management for the Region by controlling activities in rare and threatened habitats, at-risk habitats and working with landowners to protect and enhance these habitats*".

This approach is supported, in principle, given the range of functions carried out by the Council in relation to indigenous biodiversity. However, from a District Plan perspective, it is essential that the detail of who does what is made clear in the One Plan so that there is no overlap of functions and the functions are carried out as efficiently and effectively as possible.

In respect of roles, the Proposed One Plan includes a Policy (Policy 7-1 of the RPS) which apportions the responsibilities of Regional and TAs in maintaining biodiversity as follows:

"(a) *The Regional Council shall be responsible for:*

- (i) *developing objectives, policies and methods for the purpose of establishing a region-wide approach for maintaining indigenous biological diversity*
- (ii) *developing rules controlling land use activities for the purpose of maintaining biodiversity.*

(b) *Territorial Authorities shall be responsible for:*

- (i) *implementing objectives and policies of this chapter when developing rules and making decisions on subdivision and land-use consent applications*
- (ii) *retaining schedules of notable trees and amenity trees in their district plans and/or such other measures as they see fit for the purpose of recognising amenity and cultural values associated with indigenous biological diversity."*

The Policy is ultra vires as it does not accord with s.30 (1)(LGA) and s.31(b)(iii) of the RMA. In attempting to paraphrase these statutory provisions and s.62(1)(i)(iii), their true meaning and intent have been lost.

There is also concern on the method used to recognise indigenous biological diversity. More emphasis needs to be given to geographical areas and corridors of habitats, and less to type of species.

Council seeks the following decision from Regional Council

- (a) Amendment of the Policy to properly reflect the division of responsibility between Regional and local government and their respective functions.
- (b) Regional Council could provide guidance and maps to develop geographical areas and corridors of habitats across the country.
- (c) Not limit the planning to species and prominently to water.

Part I, Policies 7-7 and 7-8.

Policies 7-7 'Outstanding Landscapes' and 7-8 'Natural Character' are vague, leaving their intent unclear and TAs struggling to ascertain how to give effect to these Policies.

Policy 7.7 states:

"The landscapes listed in Schedule F shall be recognised as outstanding. All subdivision, use and development affecting these areas shall be managed in a manner which:

- (a) *avoids or minimises to the extent reasonable any adverse effects on the characteristics and values specified in Schedule F for each landscape*
- (b) *takes into account and avoids any cumulative adverse effects*
- (c) *takes into account the policies in Chapter 3 when assessing activities involving renewable energy and infrastructure of Regional importance."*

Section 7.1.3 states that:

"Although the issue of landscape change and competing pressures is best dealt with at a Territorial level, some policies giving guidance on the appropriate balance between important infrastructure, including renewable energy, and other values, such as landscape, are provided in Chapter 3."

There does not appear to be any obvious guidance provided in Chapter 3 such that a TA can discern what an "appropriate balance" between conflicting values is. Forms of renewable energy such as windfarms are given preference over non-renewable energy resources but there is no indication as to how such forms of renewable energy are to be considered when local or Regional landscape values and windfarm effects are to be reconciled. Issue 7-2 (pg

7-3) states (in reference to the Tararua and Ruahine Ranges) that "*developments with the potential for greatest impact include windfarms...*" Objective 7-2 requires that:

"(a) The characteristics and values of the outstanding landscapes identified in Schedule F are protected as far as practicable."

What does "*as far as practicable*" mean? Should landscapes be "*protected*" (compared with 'managed') given that they are living, dynamic, evolving entities? The RMA [S6(b)] refers to 'protection' but limits such 'protection', to "*inappropriate subdivision, use and development.*" Is a windfarm an 'inappropriate use', given its recognition in S7(j) of the RMA?

It would appear that the Regional Council will determine what is appropriate on a case by case basis, as indicated on page 7-10 of the Plan.

Page 7-8, under the heading "*methods*" states that "*the main non-regulatory methods the Regional Council will pursue are outlined below as action plan summaries.*" One of these action plan summaries (page 7-10) concerns landscapes, as follows:

Project Name	District Planning – Natural Features, Landscapes and Habitats
Project Description	<p>The Regional Council will formally submit on resource consent applications received by Territorial Authorities for land use activities where there is potential for effects on outstanding natural features, landscapes or native habitats.</p> <p>The Regional Council will formally seek changes to district plans if required to ensure provisions are in place to provide an appropriate level of protection to natural features, landscapes and native habitats.</p>
Who	Regional Council and Territorial Authorities.
Links to Policy	This project links to Policies 7-7 and 7-8.
Targets	<ul style="list-style-type: none"> • Submissions completed on consent applications. • District plan changes sought if necessary by 2008.

The One Plan confuses matters by inclusion of formally submitting on resource consent applications (ie a regulatory process) as a non-regulatory method.

RPS as an outstanding landscape, so why should submissions now be forthcoming?

Council seeks the following decision from Regional Council

Inclusion of strong signals in the RPS, either through regulatory or non-regulatory means, to TAs on how to deal with outstanding natural features and landscapes.

Schedule F Maps

The maps relating to Biodiversity Schedule F are poorly defined and not accurate. This makes it difficult to submit in a meaningful manner. There are also major concerns around the definitions of manuka, kanaka and woody species.

Council seeks the following decision from Regional Council

- (a) That the maps in Schedule F are not used until they are accurate and reflect current land use.
- (b) That the definitions for manuka, kanaka and woody species are rewritten correctly.

Air Quality: Schedule G

Taumarunui has been identified as having unacceptable fine particulate levels (PM₁₀) in its air shed. The improvement of air quality for Taumarunui is supported, as it is noted that the community is comprised of a large section of low socio-economic population, having populations of the elderly and very young, both of which are significantly affected by air pollutants.

The National Regulations placed a requirement on Regional Council to monitor air quality and report ambient air quality exceedances to the public. The monitoring method to assess PM₁₀ by Regional Council was not the prescribed methodology to assess ambient air quality standards as set out in the National Regulations. There are serious concerns about the manner in which air quality data has been recorded in Taumarunui by Regional Council. It is thought that the data collection undertaken to date is neither scientifically robust enough nor sufficiently representative of the town as a whole to warrant "airshed" status for the town under the One Plan. The "airshed" status has implications for long-term growth and development in Taumarunui and Council considers that the airshed status should be removed until more appropriate air quality data collection has been undertaken and the results analysed.

Ohakune is identified in Section 8 as having "degraded" air quality in winter. Similarly to Taumarunui, there are also strong concerns that the monitoring of air quality undertaken in Ohakune by Regional Council has not been scientifically robust enough to accurately determine the "degraded" status of air quality in the town. On that basis, Council considers that the "degraded" air quality status given to Ohakune should be removed from the One Plan. A TA responsible for managing land use in any of the areas mentioned in Policy 8-6 would be found wanting if it had to advise a prospective applicant wishing to establish and operate, say a woodburner, as part of a commercial operation in any of these area. The first problem is that the airsheds in these particular areas are not defined. The second is that there is no information on current levels or other sources of PM₁₀ within the same area, from which a reduction could be negotiated and offset. There is also no explanation or justification as to how or why the five year consent duration has been set.

PM₁₀ monitoring was undertaken this winter in Taihape, which also exceeded the ambient standards last winter, using the correct methodology and found to have fewer exceedances. This implies Taumarunui air quality may not be as bad as first thought.

The cost of a PM₁₀ monitoring units is expensive and it should be considered to established a rolling monitoring unit around the Region. A single small community cannot afford such a unit. The reporting of the air quality results should be carefully managed to minimise the effects on the tourism industry, particularly on such limited data at this stage.

Industrial burning, not just fires are a major contributor to the PM₁₀ levels and Council would welcome Regional Council compliance team working with District compliance team to reduce these incidents.

Public land is defined in the glossary of the proposed plan as "land to which the public has free access at the time that any activity is undertaken". This includes all aspects of the roading network as well as potentially sites such as transfer stations and landfills. The literal interpretation of Policy 8-2 means that if any member of the public complains about, for example, dust or smoke at a road works site, or odour while disposing of their refuse at

a transfer station or landfill site, routine activities such as solid waste and road maintenance may be contrary to Policy 8-2

Council seeks the following decision from Regional Council

- (a) Regional Council should remove all reference to Taumarunui and Ohakune from Section 8 of the One Plan until such time as more scientifically robust monitoring regimes are put in place in Taumarunui and Ohakune to properly measure air quality and establish an appropriate air quality classification for the towns.
- (b) That any gazetted reference to the Taumarunui Airshed is suspended.
- (c) A rolling PM₁₀ monitoring unit should be considered for around the region.
- (d) Policy 8-2 and/or the definition of public land be amended such that solid waste and roading activities will not be contrary to Policy 8-2.

Natural Hazards: Chapter 10

The One Plan identifies that TAs shall be responsible for developing objectives, policies, and methods (including rules) for the control of the use of land to avoid or mitigate natural hazards in all areas. The avoidance or mitigation of natural hazards is a function of both Regional and TAs as listed in Sections 30 and 31 of the RMA respectively. As such, it is important that the RPS provide, as it does in Policy 10-1, a clear distinction between the responsibilities of the respective Authorities for managing this function. However, the nature and application of the responsibilities directed at TAs as described in Policies 10-1(c) and 10-2(a) and (b) require clarification.

For example Policy 10-2 concerns floodways and floodable areas. TAs shall also identify floodways and other areas known to be inundated by a 0.5% annual exceedence probability (AEP) flood event and control land-use activities in these areas. There is no mention of Lahar pathways.

No justification is provided in the One Plan for the requirement to identify areas subject to what is a 1 in 200 year flood event beyond the premise of providing a level of "insurance" against future climate change influenced flood events. There is mechanism to assess how Regional Council reached this flood level. There is no information in the Plan or the S32 Report to support such a significant level. What is the basis upon which this change has been made?

Secondly, as there is no stated difference in the level of risk between 'floodways' [Policy 10-2(a)] and 'floodable areas' [Policy 10-2(b)], clarification is needed as to why there is a difference in the management approach being suggested (i.e. 'floodways' – no new development compared with 'floodable areas' – development to be avoided unless...)

Policy 10-2(b) may also be ultra vires to the RMA which expresses no preference for avoidance over mitigation or remediation.

The Schedule I, Floodable Areas Maps, will need to be of a larger scale and more definitive if the TAs are to apply specific provisions to these areas at the district level. Regional Council has not, to date, undertaken any floodplain mapping of the Ruapehu District, and have indicated at staff level that none is programmed to be undertaken in the short to medium term.

Given that a review of the District Plan is currently underway, the considerable cost of identifying 1 in 200 year flood affected areas will thus fall entirely to Council which is inequitable given the lack of information provided in the One Plan with regard to flood events in the Ruapehu District, and the lack of attention given by Regional Council to the issue of natural hazards in the Ruapehu District in general. Given that a state of

emergency was declared in Ohura in 1998 due to flooding, Council expects at minimum that the One Plan should identify Ohura as a "floodable area" for the purpose of the One Plan. Taumarunui also has a rated flood protection scheme, but this also does not appear on the Map. This leads Council to reiterate that the maps are inadequate.

Council supports Policy 10-1(b)(iii) of the One Plan that allocates Regional Council the responsibility for taking the lead role in collecting, analysing, and storing Regional natural hazard information and communicating this information to TAs.

Council also supports the non-regulatory methods set out in Section 10.5 of the One Plan, particularly the Floodable Areas Research project. Council is in the process of reviewing its District Plan at present and will require the information produced by the project to incorporate into the review.

Policy 10-6, re climate change, is inadequate. Is the Regional Council prepared to provide any clearer direction as to how the TAs should be planning for the effects of sea level rise, for example, before the hazard mapping is completed in 2010 (refer the first project on page 10-5)?

Council seeks the following decision from Regional Council

- (i) Amendment of Section 10 to provide clear direction as to how TAs should be planning for sea level rise and/or climate change; and
- (ii) Recognition of the correct interpretation and application of s5(2)(c) of the RMA.
- (iii) For Regional Council to provide further justification for the requirement for TAs to identify and control landuse within areas subject to 0.5% AEP inundation, or reducing the requirement to identifying areas subject to a 1.0% AEP event.
- (iv) Regional Council to identify Ohura as a floodable area for the purposes of the One Plan and include a map of the Ohura floodable area in Schedule 1 of the One Plan.
- (v) Regional Council to identify the Taumarunui Flood Protection Scheme and include a map in Schedule 1 of the One Plan.
- (vi) Regional Council to retain Policy 10-1(b)(iii) of the One Plan.
- (vii) Regional Council to retain the methods stated in Section 10.5 of the One Plan.
- (viii) Council also submits a request for help in identifying other flood plan areas as it develops the District Plan.
- (ix) Regional Council to include and identify lahar pathways.

THE REGIONAL PLAN

Relevant policies which impact on the consideration of the rules have been identified where possible. This is because the links between the RPS and RP are not explicit. In decision-making, first reference is made to the RP and it is undertaken using a hierarchy to assess an activities compliance with:

- (1) the rules of the plan, then
- (2) the policies and
- (3) guidance from the Regional Policy Statement. The specific provisions of the proposed plan that this part of the submission relates to are: Section 11 – 2 Regional Rules of Unrestricted Activities.

Objectives and Policies on pages 11-10 and 11-11

The Objectives and Policies on pages 11-10 and 11-11 are not resource management objectives. They are administrative matters and explanatory statements that would be better written as such. In part, they explain what Regional Council was trying to achieve when the rules in Part II of the Plan were written, but they do not appear to clarify how the purpose of the act is to be achieved or how decision-making will be improved as a consequence of their implementation.

These objectives and policies, written as they are, do not support the rules in Part II of the One Plan. The plan does not comply with s.67 of the RMA and is therefore ultra vires.

Council seeks the following decision from Regional Council

Re-draft Section 11.2 as an explanatory statement rather than as objectives and policies.

Policy 11-3: Conditions, Standards and Terms in Regional Rules, & all of Part II

Policy 11-3 states that: "Regional rules will contain measurable and enforceable conditions, standards and terms so that there is certainty for both resource users and other interested parties". This Policy is supported. However it is noted that the Regional rules following do not provide the certainty to resource users intended.

The Plan provides for a number of activities as permitted activities, where such activities are described as such in the Plan and where the activity complies with all the conditions, standards or terms, if any, specified in the particular rule.

To be a permitted activity, there must be no doubt or ambiguity or discretion reserved as to whether an activity is permitted or not. To be ultra vires the status of a permitted activity must be certain. Throughout Part II of the Plan, there are many 'conditions/standards/terms' relating to rules for permitted activities which are subjective, uncertain or ambiguous in their interpretation and/or application. These uncertainties or ambiguities must be removed to provide certainty to those persons seeking to confirm or lawfully carry out permitted activities.

Council seeks the following decision from Regional Council

Redraft, remove or replace all the 'conditions/standards/terms' for permitted activities in Part II of the Plan which contain any element of uncertainty, ambiguity or discretion.

Policy 11-4: Common catchment expiry or review dates

Policy 11-4 provides for common catchment expiry or review dates. The need for a common catchment expiry date is unnecessary if the Plan contains robust policies and rules. The common catchment expiry date is likely to be costly for applicants and consent holders and divisive for the communities involved. Policy 11-4 does not distinguish between private users and activities managed by TAs for the public good. The activities managed by TAs are recognised as being of Regional importance in Policy 3-1, are for the public good, and are required to be carried out as a matter of statute (principally, the LGA and Public Health Act). Such activities should not be subject to a review or renewal process whereby allocation of resources is sought concurrently by a number of different parties, as would occur with the common catchment expiry and review dates.

Council seeks the following decision from Regional Council

That the Policy 11-4 be amended to read:

"Consent expiry dates will be set to the closest common catchment expiry or review date as outlined below in Table 11.2, unless any of the circumstances described in Policy 2.2 apply, or unless the activity is for infrastructure provided for under Policy 3-1. ..."

Chapter 12: Land Use Activities And Land Based Biodiversity (Section 12, Rules 12-2, 12-3, 12-7 And 12-8)

Some rules in Section 12 of the Plan do not provide certainty as to activity status and, therefore it may be difficult for a landowner or a district planner administering the land use provisions of a District Plan to discern whether or not a consent is required and, if required, what type of consent.

In Rule 12-2, for example, the status of an activity is determined by the activity description in the 'activity' (2nd) column of the rule, the 'conditions, standards/terms' (4th) column of the rule and 'Schedule E: Indigenous Biological Diversity' of the Plan. Amongst other things, it requires the slope of the subject land to be determined and an assessment made as to whether any 'threatened or at risk habitat' exists on the land. The later is likely to require an expert opinion from a botanist or ecologist. Therefore it is a moot point as to whether these rules provide the required legal certainty or not. As to slope, it is not clear as to what method of calculating slope and demonstrating compliance with the rule will be acceptable to the Council, as consent Authority. Condition (d) should not to be a condition for the activity to be a controlled activity, as it cannot be complied with before the activity commences! It should to be a condition of consent.

Council cannot understand how can 'land mapped as hill country, highly erodible land in Schedule A' [12-2(e)] can be identified from an A4 map (refer schedule) that covers the entire region. Rule 12-3 also refers to 'highly erodible land', the definition of which (in the glossary) refers to the map in Schedule A. The scale of this map is such that landowners located near an identified boundary will not be able to tell whether the rule applies to them or not.

Council seeks the following decision from Regional Council

- (a) That the maps in Schedule A are not adequate and need to be redrawn using information at a much lower level.
- (b) That 'slope' is a blunt measure for highly erodable land, and more scientific methods must be used, including soil type, etc.

Rule 12.8(f)

In relation to Rule 12.8(f), it is not clear who will determine whether vegetation clearance activities, for example, are being carried out for the purposes of protecting or enhancing a rare or threatened habitat? It is also noted that Rule 12-8 refers to activities within a 'rare or threatened habitat*! The * denotes a definition in the glossary of the Plan. However the glossary contains two definitions namely 'rare and threatened habitat' and 'threatened habitat', neither of which have an 'or' in them and there is no definition of 'rare habitat'.

In relation to the definition of "Whole Farm Business Plan", paragraph (c) needs to include the requirement for an ecological assessment of indigenous species of any proposed future vegetation clearance. This is necessary to ensure that integrated management of water and soil issues can be achieved and taken into account by any farmer when considering what vegetation clearance is to be undertaken. It will ensure that all relevant assessments are carried out contemporaneously and if further consents are required by any TA pursuant to the provisions of their District Plan, then all relevant issues will have been taken into account in the preparation of the "Whole Farm Business Plan".

Council seeks the following decision from Regional Council

All the above matters and provide certainty of interpretation and activity status for land users and Plan users seeking to interpret and apply the rules in Section 12 of the Plan.

Amend the definition of "Whole Farm Business Plan" in glossary 10, paragraph (c) to read "an indigenous ecological assessment of any proposed future vegetation clearance".

Policy 12-1 & 12-2: Recognition of Industry Standards

- (a) Policy 12-1(c) states that Regional Council will have particular regard to any industry standards that are relevant to the activity when making decisions on resource consent applications for vegetation clearance and land disturbance.
- (b) Policy 12-2 states that Regional Council will examine relevant industry based standards and codes of practice and will accept compliance with industry standards as being adequate to avoid, remedy or mitigate adverse effects.

There is concern that industry standards which could affect roading practices may be examined and adopted by Regional Council without consultation with the Road Controlling Authority. This could happen when an industry based standard for say, forestry, includes provisions relating to roading. These may contain provisions which address environmental effects but may not contribute to the safety or effectiveness of the roading network. Council is seeking reassurance that any standard or codes of practices relating to roading will not be adopted by Regional Council without consultation and agreement of the appropriate Road Controlling Authority.

Council seeks the following decision from Regional Council

- (a) Rewrite this Section in accordance with Part 3 of the First Schedule to the RMA; or
- (b) Amend Policy 12-2 so that consultation and agreement with the appropriate Road Controlling Authority is required prior to adopting any Codes of Practice or industry standards for roading activities.
- (c) The Environment Code of Practice for River Works be expanded to include all works undertaken in the Region, by Regional Council, District Council or those with delegated authority.

Policy 12-3 and 12-4

Policy 12-3 states that Regional Council will generally allow vegetation clearance or land disturbance associated with any activity that is important or essential to the wellbeing of local communities. This is supported and it is considered that it needs to be made explicit that it is referring to infrastructure recognised under Policy 3-1. Without this, it becomes a matter of interpretation as to what is "essential" for the wellbeing of local communities.

Acknowledgement of important community infrastructure given in Policy 12-3 is not considered to be adequately reflected in the Rules governing land disturbance and vegetation clearance. The rules do not reflect the Policy intention, as the rules relating to vegetation clearance and land disturbance are not sufficiently permissive to enable the maintenance and minor upgrading of infrastructure. For example, the local roads within the region will require a resource consent being required for day-to-day roading projects. This is a significant departure from the operative Regional Council rules relating to land disturbance and vegetation removal, as they relate to roading projects.

Similarly, Policy 12-4 is supported, although Council requests that, for the avoidance of doubt, it be made explicit that the roading network and other recognised infrastructure is provided for under Policy 12-4.

Given the broad definition of land disturbance, resource consents may be triggered by the spraying of roadside drains.

Council seeks the following decision from Regional Council

(a) Policy 12-3 be amended to read:

"The Regional Council will generally allow vegetation clearance or land disturbance associated with an activity that is important or essential to the well-being of local communities, the Region or a wider area of New Zealand, and recognised under Policy 3-1. Such activities might include"

(b) A new clause (c) be added to Policy 12-4 as follows:

(c) *a roading network managed and operated by a local Authority or Transit New Zealand*

A new clause (d) be added to Policy 12-4 as follows:

(a) *other infrastructure of Regional importance*

(b) *Roadside spaying of vegetation for maintenance purposes be excluded.*

Rules 12-1, 12-3, 12-4, 12-5, 12-6

These rules relate to land disturbance and vegetation clearance and include a number of restrictions which would mean that roading activities cannot be considered as permitted activities. This is due to the limitations in terms of volumes and areas for land disturbance and vegetation clearance contained in the permitted activity standards and that a legal road is defined as a single "property".

The glossary definition of land disturbance states: "This definition excludes normal maintenance of legally established structures, roads, tracks and railway lines". This means that maintenance works resulting in land disturbance are not addressed via any of the land disturbance rules. Regional Council has, in the past, applied a very narrow definition of

“maintenance” and therefore to allow the Road Controlling Authorities to effectively and efficiently fulfill their obligations, the definition of land disturbance needs to also exclude minor improvement works.

Maintenance of the infrastructure, including district road network and the carrying out of upgrade works to improve the safety and efficiency of the road network, is considered important for the wellbeing of communities. It is critical that these works can continue to be undertaken as a permitted activity.

The acknowledgement of important community infrastructure given in Policy 12-3 is not considered to be adequately reflected in the Rules governing land disturbance and vegetation clearance as the rules do not will not allow the maintenance and minor upgrading of infrastructure. For example, the local roads within the region without resource consents being required for day-to-day roading projects. This is a significant departure from the operative Regional Council rules relating to land disturbance and vegetation removal, as they relate to roading projects and is a major and unnecessary compliance cost for small communities.

In addition, Council considers it is inconsistent with the policies included in the One Plan, which purport to facilitate essential infrastructure works. Yet, land disturbance and vegetation clearance undertaken by farmers are provided for as a Permitted Activity, whereas these same activities require resource consent if undertaken by a TA.

The glossary definition of vegetation clearance does not exclude any maintenance works for the roading network. This is considered inconsistent with the land disturbance definition and impractical given the need to clear vegetation in order to maintain lines of sight and safety of the roading network. Therefore, an amendment to the definition of vegetation clearance is also required.

As the RMA presumes that – for Regional Council matters – activities are restricted unless expressly permitted, a new rule is required which provides for normal maintenance and minor improvements to the roading network carried out under the control of the Road Controlling Authority as a permitted activity.

Council seeks the following decision from Regional Council

- An amendment to the definition of vegetation clearance is required.
- Maintenance of the infrastructure including district road network and the carrying out of upgrade works be a permitted activity.

Rule 12.2 (Production Forestry)

Council considers this approach is inconsistent with Policy 12.3 included in the One Plan, which purports to facilitate essential infrastructure works. Yet, land disturbance and vegetation clearance undertaken by accredited foresters is a Permitted Activity, whereas these same activities require resource consent if undertaken by a Territorial Authority.

Rule 12-3 relating generally to earthworks is opposed, as it is considered unnecessarily restrictive. The threshold of 100m² or 100m³ of works per property is considered restrictive in the context of the rules of the Operative Regional Land and Water Plan. The operative plan only requires consent when earthworks associated with road widening are within 5m of a watercourse.

It is noted that maintenance of roads is excluded from the definition of land disturbance and as such, would not require consent under this rule, but there is no guidance on what level of road network works could be regarded as “maintenance”, so it has been assumed that this might not include realignment works, widening, seal extensions, passing bays, drainage and safety improvements, etc.

It is noted that these provisions only relate to land deemed to be highly erodible. However, the map of highly erodible land given in Schedule A includes a large portion of the Region, of which approximately two thirds of the Ruapehu District is part. Therefore, a large majority of the Ruapehu District road network will fall within the areas identified as highly erodible. In addition, the map of highly erodible land in Schedule A is considered difficult to interpret. At such a large scale and without property boundaries is difficult to locate a specific site, and not practical for road controlling authorities to use.

Rule 12-3 only relates to land that has an existing slope of less than 20 degrees. However, there is no guidance provided for how this criterion should be applied and the threshold has been set significantly too low. Further clarification is required to determine whether it refers to the average of slope for the site or any part of the site.

Maintenance of the District road network and the carrying out of upgrade works to improve the safety and efficiency of the road network is considered important for the wellbeing of communities. It is critical that these works can continue to be undertaken as a permitted activity,

Rule 12-4 relating generally to vegetation clearance is opposed, as it is considered unnecessarily restrictive. The threshold of 100m² for coastal erodible land or one hectare for hill country is considered restrictive in the context of the rules of the Operative Regional Land and Water Plan. The operative plan only requires consent when vegetation within 5m of a watercourse is removed, or contiguous clearance of more than two hectares.

It is noted that maintenance of regional infrastructure including roads is excluded from the definition of land disturbance and vegetation removal in the Operative Plan, but while this has been carried over to some extent in the One Plan for land disturbance, it has not for vegetation removal.

Maintenance of regional infrastructure including the District road network and the carrying out of upgrade works to improve the safety and efficiency of the road network is considered important for the well being of communities. It is critical that these works can continue to be undertaken as a permitted activity.

Council opposes Rule 12.5 as it is considered unnecessarily restrictive. A consent requirement for works within 10m of river, lake or wetland for land with a slope up to 15 degrees is considered restrictive in the context of the Operative Regional Land and Water Plan. The Operative Plan requires consent when works are within 5m of a watercourse. The rule further requires consent for works within 100m of a waterbody for steeper land (over 15 degrees) and then sets up a complicated regime for land where the slope varies between the two threshold, which in our experience, would be any site within the Region. The 100m requirement is particularly restrictive in the context of the Operative rules and the slope reducing approach is unnecessarily complicated from a consent administration and compliance viewpoint.

Furthermore, it is noted that unlike the Operative Plan, there is no definition provided in the One Plan for a river or stream. This makes it difficult to determine when this Rule applies.

In addition, the rule does not apply to production forestry activities, which unfairly provides for this activity, without giving recognition to the essential nature of district infrastructure a public good, which unlike production forestry activities, a private good, directly provide for the social, economic and cultural wellbeing of people and communities.

Rule 12.7 – Activities within at-risk habitats.

Rule 12.7 require resource consent for works within areas defined as “at risk” as discretionary activities. The activities associated with maintenance and upgrades to the District road network will fall within the scope of activities listed in Rule 12.7. All proposed maintenance and upgrades to the network would therefore need to be considered under the

requirements of this rule and the associated definition for At Risk Habitats in the glossary, which cross references to Schedule E items as well as vegetation within 20 metres of certain Schedule D items.

Schedule E describes what constitutes an "at risk" habitat in words. This makes it impossible to identify when these rules would apply. In all cases the advice of an ecologist, hydrological and/or geomorphological professional would be needed to interpret the information and in the schedule and what features may or may not be present on a site. This is not an efficient method for achieving the purposes of the RMA.

It is considered that the need for any specialist advice to determine if any of these habitats were affected and therefore if resource consent is required under Rule 12.7 is an onerous and expensive requirement to place on TAs or in their management of the District road network or indeed for any individual wishing to carry out activities within the Region.

The approach taken by the Regional Council has been to place responsibility for identifying significant areas on any applicant seeking to consent a project. This is inappropriate and it is clearly the responsibility of the Regional Council to determine specific methods for maintaining biodiversity, which if rules are to be included in that package of methods. Rules must adequately identify the areas to which the rules apply.

Rule 12.8 – Activities within rare and threatened habitats including wetlands

Rule 12.8 require resource consent for works within areas defined as "rare and threatened habitats" as non-complying activities. The activities associated with maintenance and upgrades to the District road network will fall within the scope of activities listed in Rule 12.8. All proposed maintenance and upgrades to the network would therefore need to be considered under the requirements of this rule and the associated definition for "rare and threatened habitats" in the glossary, which cross references to Schedule E items.

Schedule E describes what constitutes a "rare and threatened habitats" habitat in words. This makes it impossible to identify when these rules would apply. In all cases the advice of an ecologist, hydrological and/or geomorphological professional would be needed to interpret the information and in the schedule and what features may or may not be present on a site. For example 'seepages and springs' are particularly unclear – how do these differ from muddy paddocks? This is not an efficient method for achieving the purposes of the RMA.

It is considered that the need for any specialist advice to determine if any of these habitats were affected and therefore if resource consent is required under Rule 12.7 is an onerous and expensive requirement to place on TAs in their management of the District road network or indeed for any individual wishing to carry out activities within the Regional Council Region. It is considered that a non-complying activity status is overly restrictive also.

The approach taken by the Regional Council has been to place responsibility for identifying significant areas on any applicant seeking to consent a project. Council considers that this is inappropriate and it is clearly the responsibility of the Regional Council determine specific methods for maintaining biodiversity, which if rules are to be included in that package of methods, must include adequately identifying the areas to which the rules apply.

Council seeks the following decision from Regional Council

- (a) Amend the glossary definition of vegetation clearance to read:

"Vegetation clearance means the cutting, crushing, spraying, burning or other means of removal of vegetation, including indigenous and exotic plants. It does not include:

- (i) *grazing*
- (ii) *pruning or thinning operations associated with production forestry*
- (iii) *the control of pest plants as defined in the Regional Pest Plant Management Strategy*
- (iv) *vegetation clearance carried out in the normal maintenance and improvements of legally established structures, roads, tracks and railway lines"*

(b) Amend the glossary definition of land disturbance to read:

"Land disturbance means the disturbance of land surfaces by any means including blading, blasting, contouring, cutting of batters, excavation, ripping, root raking, moving or removing soil or earth. This definition excludes normal maintenance and minor improvements of legally established structures, road, tracks, railway lines and existing infrastructure.

(c) Add a new rule providing for the normal maintenance and minor improvements of infrastructure including the roading network under the control of the Road Controlling Authority as a permitted activity.

That Rule 12.2 be retained and extended to permit vegetation clearance and land disturbance undertaken by or on behalf of, TAs for the purpose of managing district roading networks and other infrastructure.

That Rule 12-5 be amended to reduce the consent requirement for works on any slopes within the vicinity of a watercourse to require consent for land disturbance and vegetation clearance only within 5 metres of a waterbody. Or Alternatively, add a new sub-number for those activities for which Rule 12.5 does not apply to, which are listed in subsection

(f) undertaken by or on behalf of, Territorial Authorities for the purpose of managing district roading networks and other infrastructure.

That rule 12.7 be deleted in its entirety.

That rule 12.8 be deleted in its entirety, or, if it is to be retained, that the rule be amended to discretionary activity status, and all areas to which it relates to in Schedule E be mapped at an appropriate individual property scale.

Chapter 13 Discharges to Land and Water

Part II, Policy 13-1: Consent decision making for discharges to water & Part II, Policy 13-2: Consent decision making for discharges to land

Parts (a) to (c) of Policy 13-1 and (a) to (e) of Policy 13-2 set out matters that Regional Council will have particular regard to when making decisions on resource consent applications for discharges of water or contaminants into water or land. Part (d) of Policy 13-1 and Part (f) of Policy 13-2 then add a further matter Regional Council will have particular regard to, namely: *"the objectives of policies of Chapters 3, 4, 7, 9, 10 and 11 to the extent that they are relevant to the discharge"*. This appears to be a "catch-all" clause and essentially means that particular regard will be had to everything contained in the RSP and RP. This provides no certainty to the applicant as to how their application will be assessed or likely outcomes.

Council seeks the following decision from Regional Council

(a) Delete Policy 13-1(d);

(b) Delete Policy 13-2(f);

The overall objective must be that improvement in environmental performance is achieved over time. The Schedule D standards should be used as a guide only. In this regard, Table 16 of Schedule D of Part 2 of the One Plan is unnecessary. While the water quality standards may be relevant to the preparation of an AEE, it is the effects of any discharge on the receiving environment which should be assessed.

Policy 13-4: Monitoring requirements for consent holders

The need to monitor compliance and gain information on the effects of consent discharges is supported. However, the need for telemetred conductivity monitoring on all discharges greater than 300 m³/day is not explained and it is unclear as to the purpose of this monitoring. Further, clarification of clause (d) is required to ensure that the consent holder is not being requested to fund and carry out Regional Council's state of the environment monitoring responsibilities.

Council seeks the following decision from Regional Council

(a) Delete Policy 13-4(c).

(b) Clarification of Policy 13-4(d) to ensure that the consent holder is not being required to undertake monitoring necessary for meeting Regional Council's State of the Environment monitoring obligations, unless Regional Council wishes to establish appropriate collection and transmission and maintenance of this data.

Policy 13-5: Discharges of Stormwater to Surface Water and Land

Policy 13 indicates that discharge of stormwater over 100 m³/day will require telemeter flow and possibly conductivity measures.

Rule 13-15 allows for discharge of stormwater into surfacewater or land as a permitted activity. To achieve permitted activity status, it will be necessary to demonstrate, amongst other requirements:

- i That any discharges containing stormwater from industrial or trade premises, contaminated land or quarry sites have an interceptor system in place
- ii Where there are discharges from an industrial or trade premises, or an urban area, the catchment area for the discharge is less than two hectares
- iii Flood potential is not exacerbated

Rule 13-16 states that any discharges of stormwater to land not meeting the permitted activity status is a controlled activity.

Rule 13-17 states that any discharges of stormwater to water not meeting the permitted activity status is a restricted discretionary activity.

The communities cannot afford to monitor all stormwater discharges within the Ruapehu District.

Council seeks the following decision from Regional Council

- (a) It is an unreasonable requirement that Council provide telemetry data on stormwater flows given at some point it is likely that all stormwater will exceed 100 m³/day at some point in the year.
- (b) There are two types of stormwater discharges: rural and urban. Rural stormwater control should be limited to earthworks at a site using sediment retention dams.
- (c) Treatment of stormwater discharged in an urban areas should be restricted to those areas with high traffic volume, high density usage which discharge into a sensitive environment and have a demonstrated impact at half medium flows. The implementation timeframe should be staged in order of importance and over a long enough period to be affordable to the community associated with the discharge.

Part II, Section 13.4 Rules – Sewage

Rules 13-10 to 13-12 appear to apply uniformly across the region, whereas ground conditions and evapotranspiration rates, for example, can vary considerable across the region. These rules appear to be a 'blunt instrument' and unnecessary given that the current Regional rules for on-site domestic sewage discharges in combination with Building Act requirements appear to be working satisfactorily. Clarification is required, so as to avoid any administrative overlap or uncertainty at the District level, in respect of the following matters:

- a. Why is there a need for change?
- b. What is the science behind the need to introduce the Section 13.4 rules? Rule 13-11 (re new and upgraded discharges of domestic wastewater) requires properties of 10 hectares or less to cover an area of either 5000 m² for properties created by subdivision after this rule comes into effect, or 2500 m² for properties that existed prior to this rule coming into effect. There is no reason to differentiate between existing and new properties in terms of area when the effects on the environment of a discharge to land or water will be the same irrespective of whether it is a new or an existing property?
- c. If Rule 13-12 applies and a resource consent is required from both Regional Council and Council, are these consents to be sought concurrently or should the regional consent be sought before a subdivision or land use consent or building permit is sought from Council?
- d. How is the 'Manual for on-site wastewater systems – design and management' referred to in Condition (b) of Rule 13-11 (pg 13-12) to be administered and enforced?
- e. Should Condition (e) of Rule 13-11 specify a method rather than an outcome? – what if a better method becomes available?
- f. Condition (I) refers to compliance with a 'Code of Practice for the Design and Management of On-Site Wastewater Systems'. Is this code part of the Regional Plan (the One Plan, Part II) and will it be confirmed by due process (1st Schedule RMA)?

Council seeks the following decision from Regional Council

Removal of Section 13.4 of the Plan and its replacement with a clear Regional Policy Statement in Part I of the Plan which directs TAs to implement the stated Policy in combination with the exercise of their statutory duties under the RMA, the Building Act and the Health Act, amongst others.

Rule 13-13: Human Effluent Storage and Treatment Facilities

Clause (a) of Rule 13-13 states that:

"All effluent storage and treatment facilities (including sumps and ponds) shall be sealed so as to restrict seepage of effluent. The permeability of the sealing layer shall not exceed 1×10^{-9} m/s".

Rule 13-3(a) would require all Sewage Treatment Systems within the Ruapehu District to be lined.

Given the self-sealing nature of most treatment ponds, the need to seal the ponds provides an additional cost to the community. Technical feasibility of lining existing ponds is also problematic given the potential environmental effects associated with by-passing a treatment pond for sufficient time to allow the base of the pond to dry sufficiently to allow lining to occur.

The Council seeks the following decision from the Regional Council

Delete clause (a) of Rule 13-13.

Rule 13-4 Biosolids and Soil Conditioners

Rule 13-4 provides for discharge of grade Aa biosolids and solid conditioners onto production land as a permitted activity, except where the discharge is undertaken in association with a use of land controlled by Rule 13-1, catchment zones which must have a nutrient budget. These catchments are Whau 3b, Whau 3c and Whau 3d or the Mangawhero and Makotuku catchments.

Council seeks the following decision from Regional Council

- (a) Council requests clarification of the definition of Aa biosolids grading.
- (b) Clarification of how this rule will apply to land within the restricted catchment purchased for the purposes of Biosolid and sewage discharge. These activities should be exempt.

Rules 13-15, 13-16 and 13-17 Farm Discharge Rules for offal holes, farm dumps, animal effluent

These rules relate to the discharge of stormwater to land and/or water. These rules are supported, subject to appropriate timeframes being set for the achievement of acceptable water quality using the standards specified in Schedule D as a guide.

The specific provisions of the One Plan to which this submission relates is rule 13.15 – discharges of stormwater to surface water and land (permitted activity).

Rule 13.15 purports to permit stormwater discharges, but the conditions included with this rule are both unclear and onerous, to the extent that resource consent to discharge stormwater is likely to be required in numerous situations. Of particular concern is the catchment size threshold condition for industrial, trade and urban catchments. It is unclear at which point in a stormwater system consent is required – is it from the premise where it discharges into the stormwater pipe, or where the pipe (which is typically owned and managed by TAs) discharges to a natural environment? In either case, a two-hectare limit is overly restrictive and it is not clear why this is necessary, given condition (a), which requires interceptors. It is noted that there is no catchment limit in any of the operative stormwater rules.

Furthermore, condition (e) prevents discharges to any rare, threatened or at risk habitat, or natural state water management zone (schedules e and d), which as previously highlighted are not mapped and therefore cannot practically be applied.

The impact of rule 13.15 is to require consents for both new development, but also all existing stormwater discharges within the region, as there are no existing use rights applicable to discharge activities once such rules are made operative. Section 20 of the RMA provides for only six months after which it would seem that resource consents for all urban catchments would be required to be lodged by all TAs within the Horizons region. This will create a huge cost and is unnecessarily onerous. It doesn't appear from the Section 32 report that Regional Council has considered the option of direct negotiation with TAs about improving stormwater matters, which is a valid method under the RMA.

Rule 13.16 – stormwater discharges – restricted discretionary

Condition (d) prevents discharges to any rare, threatened or at risk habitat which, as previously highlighted, are not mapped and therefore cannot practically be applied.

Rule 13.17 – stormwater discharges – restricted discretionary

Condition (d) prevents discharges to any rare, threatened or at-risk habitats, etc, which as previously highlighted are not mapped and therefore cannot practically be applied.

A non-notification clause is appropriate for restricted discretionary activities.

Council seeks the following decision from Regional Council

- (a) Amendment of Rules so that a timeframe is established for achieving acceptable water quality standards of Schedule D. Recommend that these water quality standards of Schedule D are implement in a staged manner over 20 years.
- (b) That Rule 13.15 be amended to delete *(b) For discharges that include stormwater from an industrial or trade premises, or an urban area, the catchment area of the discharge shall not exceed 2 hectares; and*
- (e) *There shall be no discharge to any rare or threatened habitat*, at-risk habitat*, or Natural State water management zone*.*

That condition (d) of rule 13.16 be deleted.

Council opposes condition (a) of rule 13.17 and seeks the inclusion of a non-notification clause for this rule and condition (a) of rule 13.17 be deleted.

Rule 13-9: Discharges of Cleanfill

Rule 13-9 is supported as it provides for small scale discharges of cleanfill up to 2,500 m³/year. However, any cleanfill operation larger than 2.500 m³/year will be considered discretionary under rule 13-27. Given that there is little potential for adverse effects arising from a cleanfill operation managed in accordance with appropriate guidelines and the potential for such operations to minimise the amount of waste going to landfill, a new rule allowing for larger cleanfill operations as a controlled activity is considered unnecessary. This would support the Regional Policy Statement Policy 3-8 to generally allow cleanfill and composting operations.

Council seeks the following decision from Regional Council

A new rule providing for cleanfill operations in excess of 2,500 m³/year as a permitted activity. No rule on the volume of cleanfill is required.

Rule 13-20 Composting Operations

Rule 13-20 allows for composting operations as a permitted activity. To achieve permitted activity status is required to demonstrate:

- (a) The material is greenwaste and does not contain any hazardous substance or sewage.

The development of compost required the use of green waste or carbon source and an organic source such as puticipals. To undertake diversion of material from the landfill and convert it into compost both green waste and puticipals must be utilised together. When such compost is generated that over 50% of waste can be diverted from a landfill.

Composting can be controlled and permitted should be undertaken in a closed environment unless it is of reasonable distance from the boundary such that it does not create odour.

Council seeks the following decision from Regional Council

Compost requires an organic component and should not be limited to greenwaste.

Definition of Greenwaste.

- (a) vegetative material, but not tree trunks or limbs larger than 100 mm diameter.

Council seeks the following decision from Regional Council

Values of limb diameter shall be enlarged to *200mm*.

Chapter 13: Rules for Discharges to Land and Water

All of the TA services which are recognised in Policy 3-1 will, by virtue of their scale, be assessed as discretionary activities under Rule 13-27. This provides no certainty to infrastructure providers as to the standards they are required to meet, the matters against which resource consent applications will be assessed, or the likely outcome of the process. Policy 3-3 states that local adverse effects resulting from infrastructure recognised under Policy 3-1 will be accepted given the significant benefits derived from that infrastructure. However, the discharge rules in Chapter 13 do not reflect Policy 3-3 and give the applicant no certainty as to how Policy 3-3 will be applied.

Such uncertainty is unacceptable for the provision of services with are of such public health importance that their continuation has been legally required under the LGA. TAs have no option but to continue to provide wastewater and stormwater services to their communities and to have a consenting situation which is so uncertain and is unacceptable. Rule 13-27 contains no cross-reference to Schedule D, which the Council has earlier submitted should be a guide only. The reservation of such a wide discretion, lacking in both certainty and transparency is not best practice.

Council seeks the following decision from Regional Council

Council submits that new rules providing for discharges of stormwater and wastewater from a local Authority, as recognised under Policy 3-1, to be provided for as a controlled activity.

Chapter 14 Discharges To Air

Chapter 14: Rules for Discharges to Air

The rules contained in Chapter 14 are supported subject to the amendments to Policy 8.2.

Council seeks the following decision from Regional Council

Council submits that Policy 8-2 and/or the definition of public land be amended such that solid waste, parks and recreation and roading activities will not be contrary to Policy 8-2

Rule 14.11 – dry abrasive blasting using a mobile source

Council is concerned that this rule applies to dry abrasive blasting of bridges and other roading structures, which is a day-to-day activity associated with maintaining a roading network and other infrastructure.

This activity occurs as a permitted activity under the operative rules (RAP rule 11). There is no indication of why this needs to change either in the One Plan or the accompanying Section 32 report.

Council seeks the following decision from Regional Council

Council seeks that dry abrasive blasting be included under rule 14.10 and rule 14.11 be deleted in its entirety.

Rule 14- 5 Open Burning

This rule restricts the discharge of contaminants into air and any subsequent discharge of contaminants onto land from:

- (c) The open burning of vegetative matter on land that is not production land ...

Council seeks the following decision from Regional Council

Council submit that opening burning of untreated wood be allowed for specific purposes such as hangi's, brasier and barbeque.

Chapter 15: Takes, Uses and Diversions of Water, and Bores

Rule 15.13 – bore drilling and bore sealing

Rule 15.13 requires resource consent for any bore or hole drilling, where this extends below the seasonally highest groundwater level. This is likely to impact of geotechnical investigation work associated with roading projects depending on water tables, and may require resource consent for such investigation work. This rule could also apply to drilling for fence post holes. All such activities are a day-to-day activity associated with managing a roading network.

Council seeks the following decision from Regional Council

Council seeks rule 15.13 be deleted or that it be amended to exclude geotechnical investigation work and fence post holes, and any activities undertaken by or on behalf of, TAs for the purpose of managing District roading networks and other infrastructure.

Policy 15-5: Consent review and expiry

Policy 15-5 provides for common catchment expiry or review dates. The need for a common catchment expiry date is unnecessary if the Plan contains robust policies and rules. The common catchment expiry date is likely to be costly for applicants and consent holders and divisive for the communities involved. Policy 15-5 does not distinguish between private users and activities managed by the TAs for the public good. The activities managed by the TAs are recognised as being of Regional importance in Policy 3-1, are for the public good, and are required to be carried out as a matter of statute (principally, the

LGA and Public Health Act). Such activities should not be subject to a review or renewal process whereby allocation of resources is sought concurrently by a number of different parties, as would occur with the common catchment expiry and review dates.

Policy 15-5(b) provides an order of priority at the time of the common catchment expiry review date. This does not provide any priority to public water supplies managed by TAs. If public water supplies are subject to the common catchment review dates, then priority must be accorded to community water supplies above other users.

Council seeks the following decision from Regional Council

Council seeks an amend to Policy 15-5 to read:

"Except for community water supplies provided for under Policy 3-1, resource consents to take water shall generally be reviewed"

If this amendment is not adopted, then amend Policy 15-5(b) to read:

"allows takes in the following order of priority:

- (i) takes permitted under Rule 15-1 of this Plan and takes for the purpose of fire fighting.*
- (ii) takes for community water supplies managed by TAs and recognised under Policy 3-1 ... "*
- (iii) Communities water supplies are provided priority over hydroelectric power takes, particularly where the water is moved from one catchment into a second catchment another.*

Rule 15-5: Takes and Uses of Surface Water Complying with Core Allocations

This rule is supported, particularly the controlled activity status of takes complying with core allocations. The ability of an applicant to comply with clause (c) and (d) and ensure that all other takes are also within the core allocation is questioned and it is considered that this is a matter which Regional Council should exercise its control, rather than a condition which the applicant must demonstrate is met.

This rule does not provide for first priority of the core allocation to be set aside for community water supplies recognised under Policy 3-1. Nor do any other rules in this chapter provide for this priority. This is not acceptable given that the role of community water supplies has been recognised in Policy 3-1 and TAs are legally obliged to continue to provide water services under the LGA. TAs require certainty as to their ability to secure water supply in order to meet their LGA responsibilities.

Council seeks the following decision from Regional Council

- (a) Amend Rule 15-5 such that clause (c) and (d) are matters over which Regional Council exercises its control, rather than conditions/standards/terms to be met by the applicant.
- (b) A new rule be included providing for community water supplies recognised under Policy 3-1 as a controlled activity.

Chapter 16: Structures and Activities Involving Beds of Rivers, Lakes and Artificial Water Courses and Damming

Table 16.2 – Standard Conditions For Permitted Activities

The standard conditions included in Table 16.1 includes a number of new restrictions, which will adversely impact on the ability to maintain essential infrastructure including roading structures such as bridges and culverts in a cost effective and timely manner.

Condition (i) limits temporary diversions to just 100 metres. This is unnecessarily onerous and will in some cases encourage Roading Controlling Authorities to install short diversions, rather than using the best practicable option for diverting water around a work site. Confining diversions to the bed of the river may prevent pumps being used to divert water.

Condition (j) is impracticable to apply to bank protection works, as by its very nature, bank protection work will alter and generally “armor” the banks, remove vegetation and mean the contour of the affected banks could not be regarded as natural.

Conditions (n) and (u) limit work being undertaken during the summer period which is typically the best time for undertaking works within streams, as it coincides with low flows. Condition (n)(ii) is unclear in terms of how it is to be applied and what it is seeking to manage. Condition (n) is impracticable for managing construction programmes.

Condition (p)(ii) is a new restriction and seems particularly onerous as it affects nine months of the year, which is a significant constraint to construction activities. It is not known how much of the region is affected by this provision as the koura fisheries are not mapped or indicated in Schedule D.

Condition (q) adds another month to the time when works cannot be carried out within trout spawning streams. This is already a constraint to construction activities; the additional period will further reduce the ability for TAs to undertake maintenance and other works within the stream in a timely and efficient manner.

Condition (v) is impracticable, as such sites have not been detailed in the One Plan and such work may be necessary to managed district roading networks or other Regional infrastructure.

Council seeks the following decision from Regional Council

That rule 15.13 be amended as follows:

- (i) Any diversion of water required for works associated with a structure shall be temporary and shall be reinstated after the activity is completed, shall be within the bed of the river, shall not exceed 100 m in length, shall not be between catchments, shall not involve a lake (except artificial lakes), and the diversion channel shall have sufficient capacity to carry the same flow as the original bed.*
- (j) Upon completion of any channel bank works, the banks shall be reinstated to a natural contour and revegetated.*
- (n) Between 1 August and 31 December, gravel extraction and bed disturbance on gravel beaches shall only take place:*
- (i) within 7 days following a flood of the area of beach that is the subject of the activity, or*

~~(ii) where the extraction or disturbance commenced at the same location prior to 1 August and has not been interrupted for more than 7 days.~~

(p) [Native Fishery] The use of mobile machinery in or on the bed of a river or lake in a manner that disturbs the bed of the active flowing channel shall not take place in the following locations at the following times:

(i) in any waterbody valued as a whitebait fishery between 1 October and 30 November

~~(ii) In any waterbody valued as a koura fishery, between 1 April and 31 December.~~

~~(u) Activities shall not result in suspended sediment being conspicuous at public bathing beaches, as shown in Schedule D, during weekends and public holidays between 1 December and 28 February.~~

~~(v) No excavation of the riverbed shall take place within 500 m upstream or 1 km downstream of any flow recording site.~~

Rule 16.2

Rule 16.2 means that culverts and other roading structures are not permitted on certain rivers, which is not the case under the operative rules. Council seeks rule 16.2 provide for roading structures in a similar manner to the operative rules. It is noted that clause (a)(ii) appears to have an incorrect cross-reference.

Council seeks the following decision from Regional Council

That rule 16.2 be amended as follows:

(a) the erection or placement of a structure in or on the bed of the rivers listed below pursuant to s 13(1) RMA, except for:

(i) dam structures, which are prohibited by Rule 16-1

(ii) lines, cables, pipelines and ropeways, which are regulated by ~~the rules in Section 16.7.~~ Rule 16.10.

(iii) culverts, bridges, fords and other TArading structures which are regulated by Rules 16.11 and 16.12.

(b) any excavation, drilling, tunnelling or other disturbance of the bed of the rivers listed below pursuant to s 13(1) RMA except for disturbances associated with ~~lines, cables, pipelines and ropeways.~~ (ii) and (iii) above.

The rivers to which this rule applies are:...

Rule 16.4

Rule 16.4 means that culverts and other infrastructure including roading structures are not permitted on certain waterways, which is not the case under the operative rules. Council seeks rule 16.4 provide for roading structures in a similar manner to the operative rules.

Council Seeks The Following Decision From Regional Council

That Rule 16.4 be amended as follows:

Any of the following activities pursuant to s 13(1) RMA:

(a) *Natural State waterbodies.*

(i) *The erection, placement or extension of any structure in, on, under or over the bed of a river or lake valued as Natural State* (including lines, cables pipelines and ropeways, but excluding culverts, bridges, fords and other Tainfrastructure such as roading structures which are regulated by Rules 16.11 and 16.12).*

(ii) *Any excavation, drilling, tunnelling or other disturbance of the bed of a river or lake valued as Natural State* except for disturbances associated with (i) above.*

(b) *Sites of Significance - Aquatic and Sites of Significance - Cultural waterbodies.*

(i) *The erection, placement or extension of any structure in or on the bed of a river or lake valued as a Site of Significance - Aquatic* or Site of Significance - Cultural*, except for those activities listed in (c), ~~and~~ (d) and (e).*

(e) *culverts, bridges, fords and other Tainfrtstructure including roading structures within a river or lake valued as a Site of Significance -Aquatic* or Site of Significance - Cultural* which are regulated by Rules 16.11 and 16.12.*

Rules 16-10,

This rule is supported by Council. They enable the Council to give effect to its obligations as Road Controlling Authority and provision of essential community infrastructure recognised under Policy 3-1. Failure to adopt this rule may compromise the Council's ability to provide and maintain vital community infrastructure.

Council seeks the following decision from Regional Council

Adopt Rules 16-10, as proposed.

Rule 16.6

Council support rule 16.4 in part, provided that the definition of "maintenance and repair" of structures in the glossary is amended, as detailed below and the standard conditions in table 16.1 are amended as described above. It is noted that condition (b) contains a cross-reference to a rule that does not exist.

TCouncil seeks the following decision from Regional Council

That condition (b) be deleted.

Rule guide note at end of Section 16.4

Council support this statement and the approach it envisages and seeks to ensure the specific rules permit the regular maintenance works needed to be carried out on bridges and other essential infrastructure.

Maintenance of the infrastructure including District road network and the carrying out of upgrade works to improve the safety and efficiency of the road network is considered important for the well being of communities.

Council seeks the following decision from Regional Council

That the rule guide be retained and given effect to by accepting the requested changes contained within this submission, specifically the changes to table 16.1 and the definition of "maintenance and repair" in the glossary.

Rule 16.8

Council oppose the requirement to obtain resource consent for existing dams as this will apply to existing water take structures owned and maintained by Council. Applying for consent for these existing structures and the likely fish passage structures, will be a significant cost to ratepayers and in some cases, physical alteration of existing dams may not be feasible.

In the event that Regional Council deem it necessary to retain rule 16.9, it should include a non-notification clause in order to avoid the need to extended consultation around existing structures. A non-notification clause is appropriate for a controlled activity.

Council seeks the following decision from Regional Council

- (a) That rule 16.9 be deleted.
- (b) If rule 16.9 is to be retained, Council seeks that the following words be added to the control/discretion non-notification column for rule 16.9:

*Resource consent applications under this rule will not be notified
and written approval of affected persons will not be required
(notice of applications need not be served on affected persons).*

Rule 16.11

It is submitted that the culvert rule included in the proposed One Plan is unnecessarily onerous, contains anomalies which will make application of the rules open to differing interpretations and in most topographic situations permit much smaller culverts than the existing operative rules do. The rule will also prevent culverts being established as a permitted activity on a large number of waterways within the Region. This impacts on the ability for TAs to managing District roading networks, as culverts are an essential component of roads within the region and other Council infrastructure.

Rule 16.11 sets out a number of conditions which must be satisfied in order for a culvert to be installed within the bed of a river as a permitted activity. The rule takes a different approach than the existing operative rules, which simply sets a catchment size threshold for permitted culverts of 200 hectares or less.

The proposed One Plan rules do not permit culverts on a vast number of waterways, by virtue of the exclusion for rivers regulated by rules 16.2 and 16.4. The nature of identifying these "protected" rivers is via Schedule D, which contains vast amounts of detailed information, is not readily useable by people undertaking roading and similar everyday projects, and is such that it is impracticable to readily apply rules 16.2 and 16.4 to day-to-day local Authority works. Furthermore, permitted culverts are appropriately not restricted from any special rivers under the operative rules and it is not clear that there is any policy reason for requiring such a complicated rule regime and the introduction of consent requirements where none exist at present. This is particularly the case when structures within waterbodies have not been identified in the policy framework as one of the key issues to be addressed by the One Plan (ie Structures, and culverts specifically, have not been identified as one of the big 4 issues).

The exclusions (via rule 16.4) include "sites of significance – cultural" and these have not been identified within the One Plan at all – the indication is that these are "to be defined". This rule is ultra-vires as it is not possible to ever determine whether rule 16.4 would apply and, as such, whether a culvert can be considered under rule 16.11.

In addition, the rules are not clear on the how the culvert diameter should be measured – is it an internal or external diameter? The rules do not envisage square or box culverts. Condition (c)(iii) fails to acknowledge that it is standard practice for a culvert to narrow the bed width to some extent in order for the water to be contained, so it is not practicable for this clause to be satisfied. In addition, it is not clear which part of the culvert is to be measured in respect of this clause (i.e. Maximum diameter, or that part which intersects the bed? Furthermore, condition (c)(iv) seems overly onerous, it is not clear what type of effects a clause relating to fill above the culvert is seeking to manage and fails to acknowledge that there are many existing culverts around the region with an excess of two metres of fill above the culvert.

Council seeks the following decision from Regional Council

Council seeks that rule 16.11 be replaced with operative Beds, Rivers and Lakes (BRL) rule 11 or that rule 16.11 be amended as follows:

(a) no new culvert shall be erected or placed in:

~~*(i) a river or lake regulated under rule 16.2*~~

~~*(ii) a river or lake regulated under rule 16.4*~~

~~*(iii) a waterway managed by the Regional Council within a flood control or drainage scheme, unless the work is undertaken by the Regional Council*~~

(iv) a waterway within an urban area, unless the work is undertaken by a Territorial Authority.

(b) there shall be only one culvert per crossing.

(c) the culvert, associated fill and culvert placement shall comply with the following dimensions:

(i) a maximum culvert length of 20 metres

(ii) a culvert shall have an internal dimension of not less than 0.3 m and not greater than 2.15 metres

~~*(iii) a culvert width equal to or greater than the average width of the wetted part of the channel at the location where the culvert intersects the bed*~~

~~*(iv) a maximum fill height above the culvert of 2 metres*~~

(v) a minimum culvert installation depth below the bed of 0.3 m or 20% of the width of the culvert, whichever is the lesser.

(d) the culvert shall be positioned so that its general alignment and gradient are the same as the subject waterway.

(e) the culvert shall be constructed to allow:

(i) the flow from a 5% annual exceedence probability (20-year return period) flood event without overtopping, unless the overtopping flows to a specifically designed spillway

- (ii) the flow from a 2-year return period flood event without any flow impediment.*
- (f) the culvert inlet and outlet shall be protected against erosion.*
- (g) all practicable steps shall be used to minimise the release of sediment during construction.*
- (h) the culvert shall be constructed and maintained to avoid any aggradation or erosion of the bed.*
- (i) the culvert shall be kept clear of accumulated debris.*
- (j) the activity shall comply with the standard conditions listed in Section 16.2.*

Council seeks that the standard conditions in Section 16.2 be amended as described elsewhere in this submission or alternatively, condition (j) above be deleted also.

If condition (a)(iii) is not deleted, it is requested that it is amended to require applicants to simply obtain permission from the Regional Council rivers department (or similar), rather than obtain a resource consent for such structures.

Rule 16.12

It is submitted that the rules included in the proposed One Plan are unnecessarily onerous, constrain the size of bridges and fords in a manner that the existing operative rules do not and prevent bridges and fords being established as a permitted activity on a large number of waterways within the Region. This impacts on the ability for TAs to managing district roading networks, as bridges, fords and other access structures are an essential component of infrastructure within the region.

Rule 16.12 sets out a number of conditions which must be satisfied in order for a bridge, ford or other access structure to be installed within the bed of a river as a permitted activity. The rule continues the approach of the existing operative rules, which sets a catchment size threshold for permitted structures of 200 hectares or less, but adds in new constraints to the size of such structures with condition (c). The size of structure will be dictated by the catchment size, so it is unnecessary to have condition (c). Furthermore, 20m² is at times insufficient to construct either a ford or bridge footings in some situations.

The proposed One Plan rules restrict structures on a vast number of waterways, by virtue of the exclusion for rivers regulated by rules 16.2 and 16.4. The nature of identifying these "protected" rivers is via Schedule D, which contains vast amounts of detailed information, is not readily useable by people undertaking roading and similar everyday projects, and is such that it is impracticable to readily apply rules 16.2 and 16.4 to day-to-day Local Authority works. Furthermore, permitted structures serving catchments of less than 200 hectares are appropriately not restricted from any special rivers under the operative rules. It is not clear that there is any policy reason for requiring such a complicated rule regime and the introduction of consent requirements where none exist at present, when structures within water bodies have not been identified in the policy framework as one of the key issues to be addressed by the One Plan (ie Structures have not been identified as one of the Big 4 issues).

The exclusions (via rule 16.4) include "sites of significance – cultural" and these have not been identified within the One Plan at all – the indication is that these are "to be defined". This rule is ultra-vires as it is not possible to ever determine whether rule 16.4 would apply, and as such whether a structure can be considered under rule 16.12.

Council seeks the following decision from Regional Council

Council seeks that rule 16.11 be replaced with operative BRL rule 11 or that rule 16.12 be amended as follows:

(a) no new structure shall be erected or placed in:

~~(i) a river or lake regulated under rule 16-2~~

~~(ii) a river or lake regulated under rule 16-4~~

~~(iii) a waterway managed by the Regional Council within a flood control or drainage scheme, unless the work is undertaken by the Regional Council~~

(iv) a waterway within an urban area, unless the work is undertaken by a Territorial Authority.

(b) for bridges and other access structures, except fords, located in or on the bed of a river or lake, the catchment area above the structure shall be no greater than 200 hectares.

~~(c) for all structures located in or on the bed of a river or lake, the structure shall occupy a bed area no greater than 20 m² except for whitebait and maimai structures which shall not exceed 5 m².~~

(d) the structure shall be constructed and maintained to avoid any aggradation or scouring of the bed that may inhibit fish passage.

(e) the activity shall comply with the standard conditions listed in Section 16.2.

If condition (a)(iii) is not deleted, it is requested that it is amended to require applicants to simply obtain permission from the Regional Council rivers department (or similar), rather than obtain a resource consent for such structures.

Council seek that the standard conditions in Section 16.2 be amended as described elsewhere in this submission, or alternatively, condition (e) above be deleted also.

Erosion protection works: rule 16.13

Erosion protection works are undertaken by the Council and other TAs within the Region as part of standard maintenance and repair to the local road network and in respect of general erosion and flood protection assets installed and maintained by TAs within their districts.

Under rule 16.13 only the Regional Council can undertake these works in areas identified as flood control and drainage schemes as a permitted activity. This rule is opposed as it does not adequately acknowledge or provide for TAs to also undertake these works, unlike the operative rules, which do provide for both the Regional Council and TAs to undertake essential erosion control and flood protection works.

Council seeks the following decision from Regional Council

Council seeks that rule 16.13 be amended to incorporate TAs as follows:

Rule 16-13 activities undertaken by the Regional Council in flood control and drainage schemes: permitted

The following activities within a flood control or drainage scheme as shown in Schedule 1, where they are undertaken by the Regional Council or a Territorial Authority:

(a) the erection, reconstruction, placement alteration or extension of any structure in, on, under or over the bed of a river or lake

(b) the excavation, drilling tunnelling or other disturbance of the bed of a river (but not lake) pursuant to s 15 (1) RMA

(c) any damming or diversion of water pursuant to s 141 (1) RMA

(d) any discharge of water or sediment pursuant to s 15(1) RMA

Activities affecting flood control or drainage schemes: Rule 16.14

Rule 16.14 prevents certain activities, which may affect erosion protection and flood control schemes. Erosion protection works are undertaken by the TA's as well as Regional Council, so the exclusions should apply to TA's as well as the Regional Council.

Council seeks the following decision from Regional Council

Council seeks that rule 16.14 be amended to not prevent TAs from undertaking erosion control and flood control works, as follows.

The following activities within a flood control or drainage scheme as shown in Schedule I:

(a) the planting of a tree or shrub**

(b) the erection or placement of any building, fence or other structure (including accessways but excluding fences)

(c) the erection or placement of a fence perpendicular to a watercourse

(d) the erection or placement of a fence greater than 1.2 m high parallel to a watercourse

(e) the deposition of any rock, shingle, earth, debris or other cleanfill

(f) any excavation, drilling or tunnelling likely to undermine the functional integrity of a stopbank or river control structure

(g) any land disturbance that impedes access required for maintenance of a river or drainage scheme where the activities listed in (a) to (g) are undertaken in any of the following areas:*

(h) within the bed of a river or artificial watercourse

(i) on a stopbank

(j) on any strip of land between an artificial watercourse or riverbed, and 8 m from the inland toe of a stopbank

(k) for areas without stopbanks, anywhere within 10 m of an artificial watercourse or riverbed.

This rule does not apply to activities undertaken by the Regional Council or erosion control or flood protection works undertaken by Territorial Authorities.

Section 16.8: gravel extraction, bed disturbance and plants

Rule 16.15 provides for small-scale gravel extraction in a similar, yet slightly more restrictive way than the operative rules. Namely, extraction is not permitted from special habitat areas covered by rule 16.4. Gravel is an important activity in terms of District road networks, as the material provides important roading material. In addition, it can assist in protecting existing bridge infrastructure and is useful for flood management. Gravel extraction undertaken by TAs is normally in excess of 50m³ per year.

In the operative plan, BRL rule 15 provides for gravel extraction in excess of 50m³ as a restricted discretionary activity. There is no such rule in the proposed One Plan and it is not clear which default rule the activity would need to be considered under. It is submitted that a similar restricted discretionary activity rule should be included in Section 16.8 of the One Plan, in order to ensure that this important activity is assessed against relevant criteria and does not default to a more restrictive consent category.

Council seeks the following decision from Regional Council

COUNCIL SEEKS THAT A NEW RULE BE ADDED TO SECTION 16.8, WHICH REPLICATES OR REFLECTS THE OPERATIVE BEDS OF RIVERS AND LAKES PLAN BRL RULE 15.

Financial contributions

Policy 18-1 Purposes of financial contribution sets out the conditions under which a financial contribution can be imposed. It does not distinguish between private users and activities managed by the TAs for the public good. The activities managed by the TAs are recognised as being of Regional importance in Policy 3-1, are for the public good, and are required to be carried out as a matter of statute (principally, the LGA and Public Health Act). These activities support the four wellbeings by development of communities in a healthy, sustainable manner.

The provisions made for identifying infrastructure as being of national and Regional significance, recognising the benefits of infrastructure, and for managing the adverse effects of infrastructure on the environment are supported. The issues, objectives and policies relating to infrastructure are vitally important in order for TAs to fulfil their statutory responsibilities under the Local Government and Public Health Acts. Council is in full support of the critical role of infrastructure in supporting the local communities being identified and provided for in the Regional Policy Statement.

Council seeks the following decision from Regional Council

Policy 18-2 is nebulous. No transparent formula is provided by which an applicant might calculate the amount of financial contribution payable. As it is drafted the Policy does not enable the imposition of a financial contribution condition under s.108(2) which itself is subject to s.108(10). There is no linkage to Part I of the One Plan.

That the definition of infrastructure in the proposed plan and, in particular, Policy 3-1, only recognises some infrastructure assets, and needs to be widened to include all assets supporting communities. Therefore there should not be any financial contribution imposed for infrastructure assets and assets supporting communities.

Other than infrastructure assess and assets supporting communities Regional Council:

Incorporation of a Policy in Part I of the One Plan recognising:

- (i) that the RMA is effects based and in terms of s.5(2)(c) adverse effects on the environment are to be avoided, remedied or mitigated;

- (ii) that there is no bias in favour of avoidance;
- (iii) that off-set mitigation is acceptable;
- (iv) that environmental compensation is acceptable.

Rewrite Policy 18-2 so that an applicant can quantify the level of contribution, likely to be payable.

Glossary

The definitions contained within the glossary Section of the proposed One Plan in some cases, are critical to the application and extent of specific rules. The concerns with respect to the specific terms have generally been discussed above.

Council seeks the following decision from Regional Council

Council seeks that the following amendments to the glossary be made:

At-risk habitat means:

~~(a) an area of indigenous vegetation of a type identified in table e1 as being at risk, and which meets the criteria described in table e2 for determining whether an area of indigenous vegetation constitutes a habitat for the purposes of this plan~~

~~(b) any vegetation (whether indigenous or not) within 20 metres of an area identified in Schedule D as being a site of significance – aquatic~~

~~(c) any vegetation (whether indigenous or not, and including no threat category habitat types identified in table e1) that contains, or could be reasonably known to contain, threatened plant and/or animal species as identified in table e3.~~

Bore means any hole, regardless of the method of formation, that has been constructed to provide access to the ground – eg., groundwater monitoring, extraction of groundwater or waste disposal. Bore excludes holes required for geotechnical investigations or fence posts.

Land disturbance means the disturbance of land surfaces by any means including blading, blasting, contouring, cutting of batters, excavation, ripping, root raking, moving or removing soil or earth. This definition excludes normal maintenance and upgrading ~~or~~ of legally established structures, roads, tracks and railway lines, where these works are carried out within legal road or within a road or railway designation as defined in a district plan.

Maintenance and repair, in relation to structures, means to keep or restore a structure to good condition and includes the reconstruction or alteration of part of a structure, provided that:

(a) the maintenance does not result in any increase in the base area of the structure, unless this is required to protect the structure from erosion or structural instability

(b) the activity does not change the character, scale or intensity of any effects of the structure on the environment (except to reduce any adverse effects or increase any positive effects).

Rare and threatened habitat means an area ~~of indigenous vegetation of a type identified in table e1 as being rare or threatened respectively, and which meets~~

~~the criteria described in table e2 for determining whether an area of indigenous vegetation constitutes a habitat for the purposes of this plan mapped in Schedule E.~~

~~Threatened habitat means a habitat that since human settlement has been reduced to 20% or less of the likely land area covered by the habitat prior to human settlement. Threatened habitats are identified in accordance with Schedule E.~~

~~River means a continually or intermittently flowing body of fresh water; and includes a stream and a modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity generation, and farm drainage canal). For the purposes of this plan, a river must either be permanently flowing or have a bed width in excess of two metres or more.~~

~~Vegetation clearance means the cutting, crushing, spraying, burning or other means of removal of vegetation, including indigenous and exotic plants. It does not include:~~

~~(a) grazing~~

~~(b) pruning or thinning operations associated with production forestry~~

~~(c) the control of pest plants as defined in the Regional pest plant management strategy~~

~~(d) vegetation clearance associated with the normal maintenance and upgrading of legally established roads where these works are carried out within legal road.~~

Schedule A

Council opposes the map included in Schedule A as it is unclear due to the scale, it is inconsistent with figure 5.1 in that it contains excessive parts of the region which are not highly erodible (as indicated by figure 5.1). This map means that consent therefore required where this cannot be justified, putting the community to unreasonable costs and inconvenience. It is not clear whether highly erodible notations have extended to legal road, where such areas have been extrapolated to entire properties.

Council seeks the following decision from Regional Council

Council seeks the map in Schedule A be replaced with figure 5.1 and the information be produced and available at a site-specific scale on the Regional Council website via a web-based interactive GIS system, with property boundaries, street addresses and road names provided.

Schedule D

The maps included in Schedule D of the One Plan divide the Region into water management zones and subzones. It is considered that identifying specific watercourses and sites on these maps is difficult due to the scale of the maps and also there no roads or rivers labelled. Furthermore, there is little by way of explanation of what the implications of these zones are.

In addition, Schedule D also attributes values to each of the subzones. The process of identifying what values are associated with each catchment and watercourse is considered overly complicated. Each value has a separate map and for a single site or watercourse of interest, every map needs to be reviewed. Some values, such as the sites of significance –

cultural are not identified at all and others, such as the "koura" native fishery referred to in table 16.1 in the rules, are not mapped.

Council seeks the following decision from Regional Council

Council seeks the information in Schedule D be replaced with simplified information the specific values for individual areas/sites/streams. In addition, the areas should be mapped on a series of detailed maps, and produced and available at a site-specific scale on the Regional Council website via a web-based interactive GIS system, with property boundaries, stream names, street addresses and road names provided.

The information should enable a user to bring up all relevant values for a specific location in an efficient manner.

Schedule E

The approach of describing ecological areas in words is inappropriate and not practicable to use on a day-to-day basis.

Schedule E should be deleted or revised to a mapped schedule of rare and threatened habitats, rather than the restrictive blanket approach with a written description that requires some more specialist input to interpret and use.

At-risk habitats should be deleted entirely, as it is unnecessary in a statutory sense to have the different biodiversity categories – either a habitat is regionally significant and needs special consideration, or it is not.

Council seeks the following decision from Regional Council

Council seeks that Schedule E be deleted in its entirety, or

That rare and threatened habitats be specifically identified and mapped at an appropriate scale and included in Schedule E, and 'at risk' habitats be deleted.

Other Matters

An electronic copy of this submission can be made available to assist with summarising the submission. Council would appreciate the opportunity to discuss these concerns with the Regional Council officers reporting on the submissions, prior to any hearing being held.