

# **Minutes of Proposed Change 3 (Rangitāiki River) to the Bay of Plenty Regional Policy Statement Hearing held on Monday, 12 June and Monday, 19 June 2017 in Council Meeting Room One, Bay of Plenty Regional Council, 5 Quay Street, Whakatāne commencing at 9:50 am.**

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**Present:** RPS Change 3 (Rangitāiki River) Hearing Committee  
Councillor A von Dadelszen (Chairman)  
Independent Commissioner C Insley (Deputy Chairman)  
Independent Commissioner A Coffin  
Councillor A Tahana

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## **1 Opening Remarks**

Hearing Committee Chair Councillor von Dadelszen declared the hearing open.

Submitters in attendance were welcomed and introduced to the Hearing Committee members and informed that the hearing would proceed without undue formality.

## **2 Attendances**

### **2.1 Regional Council Staff**

- S Kameta (Hearings Secretary)
- N Steed (Programme Leader - Statutory Policy)
- D Phizacklea (Regional Integrated Planning Manager)

### **2.2 Submitters**

#### **Monday, 12 June 2017**

- Submitter 19 - J Platt Gow
- Submitter 18, FS02 - M Meier, Federated Farmers
- Submitter 16, FS01 - R Goldsmith, R Turner - Trustpower Limited
- Submitter 6 - T O'Brien, Te Pahipoto Hapū
- Submitter 3 - M Paul, D Potter - Mataatua District Maori Council

#### **Monday, 19 June 2017**

- Submitter 11, FS6 - R Waugh, J Mathieson - Rangitāiki-Tarawera Rivers Scheme Liaison Group and Rivers and Drainage Staff
- Submitter 11 - Rangitāiki River Forum - M Vercoe
- Submitter 5 - Te Rūnanga o Ngati Manawa - M Vercoe
- Royal Forest and Bird Society - L Conning (FS04)
- Galatea-Murupara Irrigation Society - C Holmes (S12, FS05)

- Te Rūnanga on Ngāti Awa - B Hughes (S15)
- G Willis, A Muggeridge - Fonterra Co-Operative Group Limited (S7, FS 03)

### 3 **Staff Report**

Programme Leader (Statutory Policy) Nassah Steed noted the Staff Overview Report had been pre-circulated to submitters and the Hearing Committee prior to the hearing and outlined key points arising from submissions and further submissions received and subsequent recommendations of staff.

It was noted pre-circulated evidence and statements were received in advance of the hearing and that the staff recommendations had not considered pre-circulated evidence and statements.

A schedule of submitter evidence and statements pre-circulated and tabled during the hearing is attached as Schedule 1.

### 4 **Hearing of Submissions - Monday, 12 June 2017**

#### 4.1 **Submitter 19 - James Platt Gow**

***Refer original submission pages 110-113 and Tabled Document No. 1***

Mr Platt Gow spoke and presented a written statement in support of his submission.

*Key points raised:*

- Sought better solutions to allow fish and eel to migrate freely in the Rangitāiki River
- All fish species should be given regard to, as opposed to, only tuna species.
- Questioned the longevity of the current trap and transfer operation and supported alternative solutions, such as fish ladders and unit grills to be explored at Aniwhenua and Matahina Dam intakes.

#### 4.2 **Submitter 18, FS02 - Federated Farmers**

***Refer original submission pages 103-109; further submission pages 5-14; and Tabled Document 2***

Federated Farmers of New Zealand (FFNZ) Senior Policy Advisor Martin Meier presented evidence to support FFNZ's submission (refer Tabled Document 2).

*Key points raised:*

- PC3 was in conflict with the National Policy Statement for Freshwater Management 2014 (NPS-FW) and the Bay of Plenty Freshwater Framework 2015; and should be put on hold or alternatively, the issues, objectives, policies and methods that relate to water management, should be excluded.
- Should the Hearing Committee proceed with PC3, FFNZ sought relief through amendments to specific parts of PC3, as outlined in Mr Meier's evidence.

*Clarification provided:*

- FFNZ's position was that freshwater values, objectives and limit setting should be completed first through changes to the Regional Water and Land Plan, before PC3 proceeded.

## **Adjournment**

The hearing adjourned at 10:16 am and reconvened at 10:59 am.

### **4.3 Submitter 16, FS01 - Trustpower Limited**

***Refer original submission pages 77-102; further submission pages 1-4; and Tabled Documents 4 and 5.***

#### **A. Ruth Goldsmith**

Environmental Scientist Ruth Goldsmith spoke and presented a written statement in support of Trustpower Limited's submission in relation to Policy RR 1B(d), requiring the modification of existing structures to allow tuna access.

*Key points highlighted:*

- Noted the difficulty and limitations of modifying the existing Matahina Dam structure.
- Noted the risks and health impacts of fish ramps on fish; and that the provision did provide for technology advancements.

*Clarification provided:*

- Delays in downstream eel trials were due to difficulties sourcing appropriate eels from Regional Council's Kopeopeo Canal Bio-Remediation Project.
- Trustpower was committed to maintaining the current trap and transfer programme that had been operated by the Kokopu Trust since the early 90's. Trustpower considered the programme was going well, noting that a training programme had been incorporated.
- The strengths and benefits of a fish ramp related only to upstream passage. A report commissioned by Trustpower on Upstream and Downstream Fish Passage Options (Ryder Consulting, September 2016) was noted and would be provided to the Hearing Committee.
- Fish friendly turbines allowed tuna to move through the turbine without damage however, this option was not considered practicable, as it would require a complete replacement of the dam structure.
- The Matahina Dam was re-strengthened in 1997 and the term of re-consenting was for 35 years.
- Other key fish species in the Rangitāiki River included kokopu, koaro and bully species. Although inanga was present downstream, it did not migrate upstream past the dam to require fish passage. Food sources of tuna included smaller fish, invertebrates and insects.

## **B. Richard Turner**

Senior Resource Management Consultant Richard Turner presented expert evidence to support Trustpower Limited's submission.

### *Key points raised:*

- Considered there were conflicts within the RPS and PC3 provisions.
- Better recognition and appropriate weighting was required of wider statutory obligations and when considering resource consents.
- Little regard has been given to practical constraints associated with renewable electricity generation activities under the NPS for Renewable Electricity Generation; and insufficient analysis within the Section 32 Report on potential costs, scale of impacts and effects of PC3 on physical modifications of structures for two-way passage of tuna.
- Water quality provisions were unclear in establishing water quality objectives and should be deleted or reframed.

### *Clarification provided:*

- Mr Turner considered recent surveys had shown an increase in eel populations.
- Confirmed the physical structure of existing dams posed an impediment to fish passage.
- Regarding relief sought to delete or reframe Issue 2.12.2(2) and Policy RR 4B, Mr Turner considered the dam had no effect on water quality. While potential issue of dissolved oxygen was noted, he understood this was not an issue.

## **4.4 Submitter 6 - Te Pahipoto Hapū**

### ***Refer original submission pages 23-30.***

Mr Tuwhakairiora O'Brien spoke in support of the submission.

### *Key points raised:*

- 1 Supported the adoption of PC3.
- 2 Raised concern on how the river had been modified and manipulated over the years and subsequent impacts of willow die back from flooding and effects of algal blooms and low river levels caused by dam operations.
- 3 Questioned the financial viability, future contingency planning and continuation of the Kokopu Trust's operations.
- 4 Opposed the submission and views of Mataatua District Māori Council and considered that the submitter did not speak on behalf of Te Pahipoto Hapū or all hapū. Mr O'Brien considered the approach to wait for water issues to be settled was too lengthy.
- 5 Supported Ngāti Whare and Ngāti Manawa's invitation of Iwi members onto the Rangitāiki River Forum; and supported 'Te Ara Whanui o Rangitāiki' and the submission of Ngāi Tamawera Hapū.

*Clarification provided:*

- 6 Considered practical options to restore the river were to hold Trustpower and farmers accountable, particularly in regard to the over-allocation of water.
- 7 Considered implementation of amendments sought to Methods 23P and 23Q would sit with BOPRC and Te Rūnanga o Ngāti Awa.

## **Adjournment**

The hearing adjourned at 11:55 am and reconvened at 1:40 pm.

### **4.5 Submitter 3 - Mataatua District Māori Council**

***Refer original submission pages 6-9 and Tabled Document 3.***

Maanu Paul spoke and presented a written statement in support of the Mataatua District Māori Council (MDMC) submission.

*Key points raised:*

- Opposed PC3 and sought that it be withdrawn.
- Considered PC3 should wait until the Treaty of Waitangi (ToW) Tribunal proceedings on Maori rights to water was resolved.
- Viewed PC3 as favouring settled iwi over hapū, that BOPRC was in breach of Māori customary rights to water and that it should collaborate with MDMC on a Proposed Statement of Water and produce a Memorandum of Understanding (MoU).

*Clarification provided:*

- Under the Māori Community Development Act 1962, MDMC was mandated and obliged to represent all hapū within its region in regard to Hapū Customary Rights, regardless of their own standing.
- MDMC had consulted with some hapū upon invitation to hapū hui, but had not consulted with all hapū due to capacity constraints.
- Confirmed Stage 2 of Tribunal proceedings on Māori interests in water would be adjudicated at the end of June, with subsequent timetable following proceedings dependent on recommendations put forward by the Tribunal for the Government to consider.
- Considered it necessary for their submission to be heard to satisfy the Tribunal. The intent of a MoU with BOPRC would be to provide a holding pattern until the Tribunal had finished, establishing a process for collaboration.
- Opposed PC3 in its entirety. Mr Paul acknowledged the Rangitāiki River Forum's promotion, protection and restoration of the river, however considered the rights and protection of fish and habitat should be recognised and maintained under Iwi customary rights.
- A correction was noted on page 3 of Mr Paul's statement, which referred to PC9 should read PC3.

## **5 Closing Remarks**

The Hearing Committee Chair adjourned the meeting and stated the Hearing would reconvene on Monday, 19 June 2017.

**Day 1 of the hearing adjourned at 2:03 pm.**

## 1 **Hearing of Submissions – Monday, 19 June 2017**

### 1.1 **Opening announcement**

The Hearing Committee Chair declared Day 2 of the hearing open at 9.35 am.

Submitters in attendance were welcomed, introduced to Hearing Committee members and informed that the hearing would proceed without undue formality.

### 1.2 **Submitter 11 and FS6 – Rangitāiki-Tarawera Rivers Scheme Liaison Group and Rivers and Drainage Staff**

***Refer original submission pages 56-57; further submission pages 35-37; Tabled Document 10.***

Rivers and Drainage Programme Leader Roger Waugh and Harrison Grierson Limited Planning Consultant James Mathieson spoke in support of the submission.

*Key points raised:*

- Mr Mathieson presented a statement of evidence that supported PC3 as notified, with the exception of an amendment sought to Method 23I to include flow variability limits.

*Clarification provided:*

- Fluvial erosion was defined as sediment and erosion caused by flowing water, particularly from poorly controlled runoff.
- It was considered that flow variability limits and indicators would reduce fluvial processes and assist water monitoring. Limiting the range of quantum and length of time would reduce impacts on the river. Rainfall was noted as helping equilibrium. While more naturalness of the river was seen as beneficial, it could also result in enabling flow variability.
- Mr Waugh and Mr Mathieson were not aware of any other evidence of techniques provided elsewhere. The number of sites for measuring flow variability was currently unknown and yet to be developed.

### 1.3 **Submitter 11 - Rangitāiki River Forum**

***Refer original submission pages 58-65; Tabled Document No. 11***

Rangitāiki River Forum Chair Maramena Vercoe spoke and provided a written statement in support of the submission.

*Key points raised:*

- Supported the adoption of PC3 as notified.
- Noted issues, concerns and aspirations that PC3 was seeking to address.
- Sought that the mandate, legislative functions and purpose of the Forum be considered.

*Clarification provided:*

- Current membership of the Forum was represented by Ngāti Manawa, Ngāti Whare, Ngāti Awa, Ngāti Hineuru, Bay of Plenty Regional Council, Whakatāne and Taupō District Councils. Tuhoe had yet to decide to join through their Settlement Act. Other Iwi (ie. Ngāti Rangitahi) could decide to join as their Iwi Settlement Claims were enacted.
- During the Forum's establishment, the issue of the health and sustainability of the Rangitāiki River had been raised by Iwi, which had become an issue of the whole Forum.
- Observations held were that tuna populations had depleted. The current trap and transfer method was considered insufficient and that a different mind-set of power generators was needed to explore and consider alternative methods.
- Considered practicable timing and options of the vision and aspirations of 'Te Ara Whānau o Rangitāiki' to restore the river to its ancestral and natural state, could be met by collaboration and working together on solutions to balance environmental, community and economic needs of the river. As an example, Ms Vercoe noted a missed opportunity when Lake Aniwanui was drained for dam operations, where a change in business mind-set could have been undertaken to collaborate with tangata whenua on potential opportunities to enhance fish passage.

#### 1.4 **Submitter 5 - Te Rūnanga o Ngati Manawa**

***Refer original submission pages 13-22; and Tabled Document 12.***

Te Rūnanga o Ngati Manawa General Manager Maramena Vercoe spoke and provided a written statement in support of the submission.

*Clarification provided:*

- Opposed any removal of Method 23D and relief sought by Trustpower.
- The population of Ngāti Manawa Iwi was estimated to be approximately 4,000 people in total, with 1,200 living in the Ngāti Manawa area, of which a majority was rangatahi (youth).
- Suitable sized eel as a food source was considered an appropriate measure.
- Impacts and consequences of the loss of long-finned tuna could be measured by inter-generational disconnections and loss of tikanga knowledge, tuna gathering practices and sites, karakia, waiata and whaikorero that were only associated with long-finned tuna.
- Te Rūnanga o Ngāti Whare did not consider that the Mataatua District Māori Council represented Ngāti Whare.
- Supported staff recommended amendments in response to submissions.

#### 1.5 **Further Submitter 4 - Royal Forest and Bird Society**

***Refer original submission pages 21-29; and Tabled Documents 13 and 14.***

Linda Conning spoke and presented a written and supplementary statement in support of the further submission.



*Key points noted:*

- The importance of recognising other barriers to fish passage.
- Supported linking water quality and strengthening measures for the protection of tuna as taonga species.
- Sought amendments to Objective 2(33), Policy RR 4B, Method 23D and Method 55 to recognise matters of significance to Māori under Policy IW 2B; identify priority ecological corridors and buffers; and recognise tuna and other indigenous fish species.
- The reinstatement of “naturalness” in Objective 7 was sought to reflect the original wording within ‘Te Ara Whanui o Rangitāiki’.

*Clarification provided:*

- Regarding Method 23D, noted correct placement of culvert runs into beds of rivers and streams could assist as an option to fish barriers.
- Linkages with recent Environment Court decisions for Ngāti Mākino were sought to integrate aspects of ecological and cultural significance, under Policy IW 2B.
- Acknowledged amendments sought to some provisions (i.e. Method 55) were out of scope of the further submission however, sought discretion that subsequent changes be considered to the current RPS, where alignment existed.

**1.6 Submitter 13, FS05 - Galatea-Murupara Irrigation Society**

***Refer original submission pages 66-68; further submission pages 31-34.***

Colin Holmes spoke in support of the submission and noted his past membership on the Rangitāiki River Forum, the Rangitāiki-Tarawera River Liaison Group and as Chair of the BOP Electricity Board.

*Key points raised:*

- Lack of water allocation available to the farming community was an issue.
- Supported revised Objective 38 and Policy RR 6C.
- Inclusion of flow variability within Method 23I needed to be explicit to address the issue of fluctuations and peaking from dams.

*Clarification provided:*

- Sedimentation build-up at dam structures hindered river mechanisms to clear themselves, therefore considered that dam owners needed to be responsible for clearing and flushing channels.
- The Society supported approximately 65 farming members and the community irrigation scheme for the valley, which was noted as being prone to drought. Approximately 20 percent of the valley was irrigated.
- Considered the effects of Wheao Dam were significantly less than at Matahina Dam.

**1.7 Submitter 15 - Te Rūnanga o Ngati Awa**

***Refer original submission pages 75-76***

Te Rūnanga on Ngati Awa (TRONA) Manager Policy & Strategy Beverley Hughes presented in support of the submission.

*Key points highlighted:*

- Supported PC3 and its recognition and provision for Te Ara Whānui o Rangitāiki into the RPS and subsequent effects it would have on district and regional plans.
- Supported submissions made by other Iwi however, noted TRONA's opposition to the Mataatua District Maori Council submission.

*Clarification provided:*

- Did not support the trap and transfer method and questioned the longevity of the current programme. Considered passage upstream was possible and could be achieved with engineered solutions, which TRONA had agreed to contribute to design and consultation.
- Anecdotal evidence (NIWA and Bill Kerrison) of examples in relation to fish ladder methods was noted.
- Regarding loss of natural habitat, a 2002 baseline report identifying sites of significance to TRONA, including vulnerable sites from twin-peaking and ramping was referenced.
- The concerns raised by the Galatea-Murupara Irrigation Society regarding loss of natural habitat were a concern of TRONA, which Ms Hughes considered PC3 was well pitched to address.
- Considered the vision and aspirations of Te Ara Whānui o Rangitāiki could be arrived at over time by: identifying the issues; achieving a baseline at a level of satisfaction to the Rangitāiki River Forum; collaboration and a willingness to work together.

## 1.8 **Submitter 7 - Fonterra Co-Operative Group Limited**

***Refer original submission pages 31-35; further submission pages 15-19; and Tabled Documents 8 and 15.***

Resource Management Consultant Gerard Willis and Fonterra Edgecumbe Operations Manager Allan Muggerridge presented expert evidence in support of the submission (refer Tabled Documents 8 and 15).

*Key points highlighted:*

- Overall and general support for PC3, objectives and methods.
- Amendments sought to ensure long-term investment at Fonterra's Edgecumbe site; consistency with NPSFM in establishing freshwater objectives; and inclusion of affected industries and additional wording under Method 23J.
- Considered the application of Policy RR 3B in regard to drinking water and water quality limits was unrealistic, had no evidence to support it and therefore considered it needed to be qualified.

*Clarification provided:*

- Confirmed Fonterra's interest was confined to the lower catchment.
- Considered the period of long-term investment at Fonterra's Edgecumbe site to

be approximately 20 years. Fonterra was looking at developing a long-term biological treatment plan on its site, therefore considered it important to have certainty in the longer term.

## **2 Closing Remarks**

The Hearing Committee Chair announced the hearing adjourned and that the Hearing Committee would reconvene to deliberate and make their recommendations.

**The hearing adjourned at 1:30 pm.**

## **3 Hearing Re-opened 4 September 2017**

The Hearing Committee reopened the hearing on 4 September 2017 at 2:05pm to consider further information received from submitters:

- Galatea-Murupara Irrigation Society: Memorandum of Counsel – refer Tabled Document 16
- Trustpower Limited: Supplementary Statement (and Supporting Documents) – refer Tabled Documents 17, 17a and 17b.

The above supplementary statements and supporting documentation were in response to submitters being sent and given the opportunity to comment on Supplementary Staff Recommendations Report dated 12 July and the Reconvened Deliberations Report dated 8 August 2017.

### **Resolved**

**That the Hearing Committee:**

- 1 Re-opens the hearing to consider further documentation received from submitters, in response to the Supplementary Staff reports of 12 July 2017 and 8 August 2017;**
- 2 Receives the tabled documents from Galatea-Murupara Irrigation Society (Tabled Document 16) and Trustpower Limited (Tabled Documents 17, 17a and 17b), for consideration as part of the Hearing Deliberations.**

**von Dadelszen/Tahana  
CARRIED**

**The hearing adjourned at 2:30 pm.**

## Schedule 1: Tabled Documents

#	Day 1: Monday, 12 June 2017	Submitter
1.	James Platt Gow - Written Statement	19
2.	Federated Farmers - Statement of Evidence of Martin Meier	18, FS02
3.	Mataatua District Māori Council – Written Statement of Maanu Paul	3
4.	Trustpower Limited – Statement of Evidence of Ruth Goldsmith	16, FS01
5.	Trustpower Limited – Statement of Evidence of Richard Turner	16, FS01
5a	Further Information provided by Trustpower Limited – Matahina Hydroelectric Power Scheme Upstream and Downstream Fish Passage Options Report (Ryder Consulting, September 2016)	16, FS01
6.	Te Rūnanga o Ngāti Whare – Written Statement of Earl Rewi, Kaitiaki Taiao Environmental Manager	10
7.	Ravensdown Limited – Memorandum provided by Planner, Chris Hansen	14
<b>Day 2: Monday, 19 June 2017</b>		
8.	Fonterra Co-Operative Group – Statement of Evidence of Gerard Willis	7
9.	New Zealand Transport Agency – Letter provided by Planning & Investment Manager, Bay of Plenty Region, Alistair Talbot	9
10.	Rangitāiki-Tarawera Rivers Scheme Liaison Group and Rivers and Drainage Staff – Statement of Evidence of James Mathieson	11, FS06
11.	Rangitāiki River Forum – Statement of Maramena Vercoe, Chair RRF	12
12.	Te Runanga o Ngati Manawa - Statement of Maramena Vercoe, General Manager	5
13.	Royal Forest and Bird Society – Statement of Linda Conning	FS04
14.	Royal Forest and Bird Society – Supplementary Statement of Linda Conning	FS04
15.	Fonterra Co-Operative Group – Statement of Allan Muggeridge	7
<b>Monday, 4 September 2017 - Further Information Filed</b>		
16.	Galatea-Murupara Irrigation Society - Memorandum of Counsel	13, FS05
17.	Trustpower Limited - Supplementary Statement; and Supporting Documents: 17a) Ministry for Primary Industries: Recruitment of Freshwater Eels 1995-2015 (August 2016) 17b) BOPRC Environmental Publication 2016/12: Fisheries assessment of waterways throughout the Rangitāiki WMA	16, FS01