

# WORKSHOP

## Strategy and Policy Committee Workshop



### **Pending National Freshwater Policy Changes & Approach for Implementation of the Regional Coastal Environment Plan**

**Thursday, 18 June 2020**

Commencing at 11.00 am

Council Chambers, Bay of Plenty Regional  
Council, Regional House, 1 Elizabeth Street,  
Tauranga





# Strategy & Policy Committee Workshop

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# Workshop Papers



# WORKSHOP PAPER

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**To:** Strategy and Policy Committee  
18 June 2020

**From:** Nicki Green  
Principal Advisor, Policy and Planning

**Subject:** Pending National Freshwater Policy Changes and Implementation

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## 1 Summary

The purpose of this workshop topic is to:

1. Provide a summary of government's pending freshwater policy changes and new regulations announced on 28 May 2020 and due to be gazetted in July 2020.
2. Seek direction about some key shifts being considered for the *NPSFM Implementation and RNRP review work programme* ("the work programme") in light of those national changes.

The work programme will then be developed and presented in future for approval by the Strategy and Policy Committee<sup>1</sup>, after central government gazettes/enacts national freshwater policy and regulatory changes.

### 1.1 Guidance sought from Councillors

- 1 Note the key changes to national freshwater policy and regulation due to be gazetted in July 2020.
- 2 Endorse key shifts to be applied to the work programme, so that staff can progress programme planning.

## 2 Background

Council is in the process of implementing the National Policy Statement for Freshwater Management (NPSFM) in stages across the region, according to a programme that was set in 2018. This would involve several plan changes, completing in December 2030. The Regional Natural Resources Plan (RNRP) (land and water sections) is also being reviewed in stages.

On 28 May 2020, the Government announced the Action for Healthy Waterways package following the public consultation process and cabinet decisions. The package includes:

- a new National Policy for Freshwater Management (NPSFM) to replace the NPSFM 2014 (amended 2017);
- new National Environmental Standards for Freshwater (NESFW);
- new regulations under section 360 of the Resource Management Act 1991 (RMA); and

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<sup>1</sup> September 2020 Strategy and Policy Committee workshop, and November 2020 Strategy and Policy Committee meeting.

- Amendments to the Resource Management Act 1991, via the Resource Management Amendment Bill 2019, including some provisions introduced late in the legislation making process by Supplementary Order Paper (SOP).

The NPSFM, NESFW, RMA s.360 regulations and SOP are currently being drafted by the Parliamentary Counsel Office and no amended drafts were made available to the public on 28 May 2020. Government proposes to gazette/enact final changes in July 2020.

### 3 Summary of the Action for Healthy Waterways package

Information material about Government's Action for Healthy Waterways decisions has been released on the [MFE website](#), including information sheets for different sectors (links provided here).

- [iwi/Māori](#)
- [dairy farmers](#)
- [sheep, beef and deer farmers](#)
- [regional councils](#)
- [horticultural growers](#)
- [farmers and communities](#)

A summary of the key changes is provided below. Importantly, there are many matters of detail that will have implications for Council, but cannot be assessed until the final text of the policy documents is available.

#### National Policy Statement for Freshwater Management

- Te Mana o te Wai requirements have been enhanced and retained as a fundamental principle of the NPSFM framework.
- Regional plans that fully implement the NPSFM are to be notified by 31 December 2024. This is an extension of 1 year from the original proposal. Final decisions are to be notified by 31 December 2026, unless an extension of time (of up to 12 months) is approved by the Chief Freshwater Commissioner.
- Direction to involve Māori will be strengthened.
- New compulsory values include threatened species habitat, mahinga kai, and a more holistic definition of ecosystem health.
- A stricter definition of the requirement to maintain or improve freshwater at or better than current state, allowing no room for decline.
- The National Bottom Lines for the nitrate and ammonia toxicity attributes are tightened to achieve a minimum of 95% species protection level, compared to the current 80% species protection level. (2.4mg/L nitrate).
- The Dissolved Inorganic Nitrogen (DIN) attribute will not be included, but Councils will be required to manage nitrogen and phosphorus as needed to achieve desired outcomes for other ecosystem health attributes. This will be reviewed in 12-months with a view to including DIN as an attribute. Councils still need to maintain or improve DIN at current levels during this period.
- Several attributes will trigger new action planning requirements if their state declines.
- There will not be a Dissolved Reactive Phosphorus (DRP) national bottom line but it will be included as an attribute and DRP must be maintained at current levels while further work is undertaken.



- It appears regional councils will be specifically required to monitor presence and abundance of certain fish species.

### **Freshwater Planning Process - Resource Management Amendment Bill 2019**

- Proposed freshwater changes to regional plans will follow a streamlined planning process after notification, with extremely limited rights of appeal. A freshwater hearing panel will hear submissions and make recommendations. Unless otherwise directed by the Chief Freshwater Commissioner, the panel will generally consist of five members (two freshwater commissioners appointed by MfE, two members nominated by the regional council, one member nominated by tangata whenua).

### **Stock Exclusion, s. 360 regulation**

- Existing fences can remain in place.
- Stock exclusion can be achieved by any effective means of preventing access.
- A 3m minimum setback distance for stock from rivers and streams (>1m wide). The original proposal was for an average of 5m.
- Some stock exclusion requirements are to be managed through farm plans rather than through the regulations. Regulations do not apply to sheep, or to low intensity hill country beef and deer.
- Regulations apply to dairy, pigs and intensive stock activities everywhere, and to deer, beef and pigs on low slope land.

### **National Environment Standard for Freshwater**

- Interim intensification restrictions apply until 2024 or until councils have NPSFM compliant plans.
- Consents (expiring 2030) will be required for change (>10ha) to dairying, increase in irrigated area of pasture, and change from forestry to pastoral farms. Consents will also be required for increasing area of winter forage cropping and dairy support.
- New cap on synthetic fertiliser application for pastoral farms (190kg/ha/yr) from July 2021. Dairy farms required to report application rates annually to the regional council. Application rates to be reviewed by 2023.
- Councils are expected to set up systems to receive and monitor levels of synthetic nitrogen fertiliser use reported by dairy farms, and assess consent applications for fertiliser use above a new cap.
- From winter 2021, consent will be required for intensive winter grazing on forage crops covering greater than 50ha or 10% of property, on slopes >10 degrees, or within 5 m or a water body.
- Feedlots will require consents from the date the NESFW comes in to effect. Stock holding areas that do not meet permitted activity conditions will require consent from winter 2021.
- Regulations to prevent loss of streams and wetlands will apply a stricter hierarchy, with offset mitigation or compensation as an avenue of final resort only for most necessary work (e.g., nationally significant infrastructure).

## Farm Plans - Resource Management Amendment Bill 2019

- Changes will be made to RMA to enable farm plans to be an enforceable requirement under the Act.
- The Act will enable the Minister for the Environment to set regulations, which will be used to roll out farm plans over time.
- Farm Plans will be mandatory for pastoral and arable farms >20ha, horticultural farms >5ha, or multiple use farms >20ha.
- Farm plans will apply not only to consented farms (but all farms above thresholds).

## Water measurement and reporting

- All consent holders over 5L/s will be required to have digital flow meters and telemetry systems in place so that real time data on water abstraction is available to Council. These new requirements will be phased in over 6 years with abstractions over 20L/s first to meet the new requirements in 2022.

## 4 Resource Management Amendment Bill

At the time of writing this report the select committee has delivered its report on the Resource Management Amendment Bill, and the second reading is pending<sup>2</sup>. These amendments to the RMA include a streamlined freshwater plan change process including:

- Freshwater hearing panels (appointment, powers and recommendations)
- Regional council's response to recommendations by a freshwater hearings panel
- Restricted appeals in respect of a freshwater planning instrument

A summary of key decisions will be presented at the workshop.

## 5 Key work programme shifts being considered

The work programme will need to change to implement the NPSFM 2020 effectively within the tight proposed timeframe (i.e., public notification of plan changes by December 2024). It is also timely to revisit the work programme given changes to organisational structure and personnel, learnings from Rangitāiki and Kaituna-Pongakawa-Waitahanui Water Management Area (WMA) processes, and Proposed Plan Change 9 and 10 proceedings. An amended work programme will be presented to the Strategy and Policy Committee<sup>3</sup> for decision in future, *after* central government gazettes/enacts national policy changes. At this current workshop, direction will be sought about some key changes to the work programme that are being considered.

Note that implementation of the new rules in the NESFW and s.360 regulations will be led by Regulatory Services and is not part of this policy development work programme. However, the work programmes will connect to ensure alignment and avoid duplication.

Table 1 outlines key shifts being considered for the *NPSFM Implementation and RNRP review work programme* ("the work programme") in light of national freshwater policy and regulatory changes.

<sup>2</sup> [https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL\\_91358/resource-management-amendment-bill](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_91358/resource-management-amendment-bill)

<sup>3</sup> September 2020 Strategy and Policy Committee workshop, and November 2020 Strategy and Policy Committee meeting.

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These will form the basis of discussion at the current workshop, and any direction will be considered as the work programme is developed.

**Table 1 - Key shifts being considered for the NPSFM Implementation and RNRP review work programme**

Proposal	Current approach	Rationale
<b>Scope and delivery</b>		
<p><b>Plan changes</b></p> <p>One RPS change and one RNRP plan change.</p>	<p>Staged implementation, resulting in 7+ plan changes.</p>	<p>NPSFM 2020 is likely to directly require an RPS change.</p> <p>Timeframe for full implementation of the NPSFM 2020 will be December 2024 (notified plan changes), not December 2030. BOPRC will not be able to resource multiple plan hearing processes while also developing plan changes for other WMAs. Proposed Plan Change 10 and 9 proceedings have demonstrated the large resource and time commitment involved, drawing key staff into hearing and appeal processes, and away from WMA plan development processes.</p>
<p><b>RNRP review</b></p> <p>Full review of the RNRP (land and water). Prioritise topics for “deeper” review, while others may be carried in to the new plan relatively unchanged.</p>	<p>Rolling review of the RNRP, with 3 sets of plan changes, completing in 2025 (notified plan change).</p>	<p>10 yearly review was required and initiated in December 2018. If RNRP review topics are not notified with NPSFM implementation (i.e., by end of 2024) it is unlikely staff resource will be available to progress them until after mid 2025 – this is an unreasonably long delay for 10 yearly review.</p> <p>Initial review of most sections of the RNRP show they are not current good practice, or fit for purpose.</p> <p>National Planning Standards require significant restructure of the RNRP.</p> <p>NPSFM implementation requires both region-wide and WMA scale provisions.</p> <p>RNRP is not congruent with RPS in some cases.</p> <p>While the review period will be very intensive, the result will be a more integrated and current whole plan.</p>
<p><b>Apply consistent methods and approaches across the region - identify values and set objectives, limits and methods at WMA, catchment, or smaller scale.</b></p> <p>Apply consistent information, technical methodologies, and planning templates across all.</p> <p>WMA scale plan development will continue (e.g., identifying values, developing objectives, limits and policy options, planning engagement with communities).</p>	<p>WMA scale approach to developing values based objectives and limits and engaging with communities.</p>	<p>To achieve consistency and efficiency, staff will develop regionally consistent approaches and reporting where possible, such as:</p> <ul style="list-style-type: none"> <li>consistent reporting and plan drafting templates;</li> <li>region wide technical methodologies (e.g., for identifying minimum flows for ecological health) and information reports (e.g., water quality at all sites across the region).</li> </ul> <p>Some aspects need to be delivered at the WMA or smaller (e.g., catchment scale), such as identifying specific values, setting water quality objectives, and limits.</p>
<p><b>Data/information and modelling</b></p> <p>Apply the information, data and models we already have.</p>	<p>Gap filling science work in each WMA, water quality modelling.</p>	<p>Substantial workload involved in collating and assessing current data and information.</p>

Proposal	Current approach	Rationale
<p>Develop “off the shelf” models for catchments where needed.</p> <p>Rely heavily on expert advice, e.g., expert panels.</p>		<p>Cost and time to build models is high, and the level of certainty of outputs is heavily dependent on quality / completeness of input data. There will be little time to fill any gaps with data.</p> <p>The NPSFM will direct Councils to use all available data and information, and not to delay progress because of insufficient information.</p> <p>There will be a heavy dependence on professional expert advice.</p>
<b>Governance, reporting and decisions making</b>		
<p><b>Decision making</b></p> <p>Full Strategy and Policy Committee as decision maker.</p> <p>A governance level working group to provide urgent advice.</p>	<p>Full Strategy and Policy Committee as decision maker.</p>	<p>Plan change will have high significance level and apply across the region, and all Councillors will be involved in decision to notify. Involving all Councillors (rather than a sub-committee) in key decisions leading up to notified plan change, enables decision making hurdles to be resolved earlier, reducing risk of disagreements in 2024.</p> <p>Working group direction as needed in between S &amp; P meetings enables the project to keep moving forward quickly in order to meet government mandated deadlines. Working group maintains some more detailed understanding of decision making matters, with simpler, faster means of update/reporting.</p>
<p><b>Komiti Māori and Co-governance advice</b></p> <p>Komiti Māori receive reports relating to involvement of iwi/hapū and Kaupapa Māori planning topics, and advise prior to S&amp;P decision making.</p> <p>Co- governance bodies receive reports on involvement of iwi /hapū, Kaupapa Māori planning topics, and WMA work in their jurisdictional area, and advise prior to S&amp;P. This includes Rangitāiki River Forum, Te Maru o Kaituna, and Rotorua Te Arawa Lakes Strategy Group.</p>	<p>Co governance bodies receive reports on involvement of iwi /hapū, WMA work in their jurisdictional area, and advise prior to S&amp;P. This includes Rangitāiki River Forum, Te Maru o Kaituna, and Rotorua Te Arawa Lakes Strategy Group. Also Tauranga Moana Advisory Group to date.</p>	<p>Co-governance bodies have interests in specific catchments, and not across the region.</p> <p>Co-governance bodies will wish to ensure that their statutory purpose, and the vision and objectives of their river documents are advanced through the plan change, and that RPS Change 3 is given effect to.</p> <p>Strategy and Policy Committee retain decision making across the plan change as a whole for consistency, and also to ensure Council’s duties and responsibilities under the RMA are delivered.</p> <p>Note that iwi may request consideration of other decision making models, when we discuss Maori engagement with them.</p>
<p><b>Reporting to Committees</b></p> <p>Report on key policy decisions only given the breadth of work to be delivered.</p> <p>Report at key plan making stages only:</p> <ul style="list-style-type: none"> <li>• Issues and Options (pre-engagement)</li> <li>• Options analysis and recommendations (post engagement)</li> </ul>	<p>Update reports. Reporting on technical inputs to plan development, ongoing community engagement, as well as policy decision reporting.</p>	<p>Ensures Councillors are properly advised and informed to make governance decisions at key decision points, while the project team is enabled to get on with their ground work and operational delivery without unnecessary interruption or reporting burden. This aligns with Councillor’s strategic intention to focus on decision making and to reduce information only reporting. It will also substantially reduce workloads involved in formal agenda reporting processes.</p>

Proposal	Current approach	Rationale
<ul style="list-style-type: none"> <li>• Draft Plan Change</li> <li>• Proposed Plan for notification</li> </ul>		
<b>Engagement</b>		
<p><b>Community Engagement</b></p> <p>Intensive public and key stakeholder engagement on draft issues, options and plan changes (2023).</p> <p>Communication and information sharing by e-newsletters and web-pages.</p> <p>TLA Forum and RWAP (+key stakeholder organisation) input without prejudice to working issues and options documents as appropriate/needed to inform options development.</p>	<p>Community group involvement in pre-draft plan development process from the outset.</p>	<p>Community group processes held in Rangitāiki and KPW WMAs have built relationships and mutual understanding, but have also been detailed, resource and time demanding, and have involved only a small cross section of the public. Materials presented have often been “work in progress” which means some repetition has been required when updates are made (e.g., modelling improvements).</p> <p>Council staff need time to draw a large programme of research, information and materials together in to cohesive proposals and effective communication materials before engaging.</p> <p>Engagement will need to focus on the key policy options/changes that affect people, both region-wide and at the WMA scale.</p>
<p><b>Iwi and hapū engagement</b></p> <p>Addressed in <i>Te Hononga</i>. Refer to Strategy and Policy Committee extraordinary meeting agenda, 18 June 2020.</p> <p>Stepping up partnership models – early engagement and co-design key Kaupapa Māori stocktakes, methods and provisions.</p> <p>Early advice and feedback on WMA objectives, limits and methods.</p> <p>Early advice and feedback on issues and options papers for other topics.</p>		<p>Refer Strategy and Policy Committee extraordinary meeting agenda, 18 June 2020.</p>
<b>Finances</b>		
<p><b>Budget</b></p> <p>No change to total 2020/2021 annual plan budgets, but reassign/reprioritise within budgets.</p> <p>Potential changes for LTP to support intensive work programme to deliver plan</p>	<p>Budgets set in LTP out to 2028.</p>	<p>Staff are still working through budget implications.</p>

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Proposal	Current approach	Rationale
changes by 2026. 2023-2031: budget will be needed to support implementation.		

Nicki Green  
**Principal Advisor, Policy and Planning**





# WORKSHOP PAPER

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**To:** Strategy and Policy Committee  
18 June 2020

**From:** Stacey Faire  
Senior Coastal Planner

**Subject:** **Approach for implementation of the Regional Coastal Environment Plan**

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## Summary

This paper briefly outlines the journey of the Regional Coastal Environment Plan (RCEP) and seeks the Committee's support for the proposed approach for determining priorities for its implementation. The approach includes consideration of efficiency and effectiveness and Council's plans and priorities. The approach proposed suggests that RCEP implementation projects are selected for implementation when they meet specific criteria while also giving effect to the plan. This paper acknowledges the financial constraints of COVID-19.

## Guidance sought from Councillors

- 1 Support for the proposed approach for determining priorities for implementation of the Regional Coastal Environment Plan.

## Background

The RCEP sets out the objectives, policies and rules for managing the effects of use and development in the coastal marine environment. The journey of the RCEP started with pre-consultation in 2011. The planning process took eight years of investment by Council to run an effective public process. The majority of the RCEP was made Operative on 3 December 2019 with the two outstanding appeals being in the final stages of Environment Court processes. Now that the plan is largely operative, the focus is on its implementation.

## 1 RCEP Implementation

The implementation of regulatory plans brings them to life and maps out the intended approach for delivering on the commitments made to Treaty partners and communities during the planning process. In scoping out the proposed approach for implementing the RCEP, consideration has been given to two key questions: what is the most efficient and effective way to bring the 53 Objectives, 78 Policies and 38 Methods of the RCEP to life; and how do we prioritise implementation of the methods?

### 1.1 What is the most efficient and effective way to implement the RCEP?

In determining the priorities for implementing the RCEP, it is suggested that an efficient approach is to identify projects that add value to existing work areas and projects. The coastal marine environment is the receiving environment from the land and its catchments, and therefore benefits from all the existing environmental enhancement work completed on the land. The essential core functions that our regulatory and compliance teams provide have a direct role in giving effect to the rules that manage the activities on land and in the coastal marine environment. Also, the projects that our integrated catchment management team work on with our coastal communities and territorial authorities play a key role in habitat restoration. In addition to this, our science marine monitoring

work provides essential information to underpin decision making in the coastal marine area, and the national direction on freshwater policy includes benefits for the marine environment when classifying water quality in estuaries. All of these programmes are well designed and resourced and contribute to achieving the outcomes sought in the RCEP.

By aligning existing work areas with methods in the RCEP, projects are reinforced and outcomes are strengthened. To be effective this approach requires internal collaboration and flexibility to work across the organisation. An online workshop with staff, during lockdown, demonstrated a high level of interest and support for aligning projects, adding value and collaborating whenever possible. The online workshop identified existing projects and national priorities that cut across organisational outcomes.

The RCEP objectives, policies and methods include direction to engage, involve and collaborate with tangata whenua. This is also consistent with national direction and a reflection of our Treaty obligations. By involving tangata whenua in our projects we are adding an important cultural lens, building relationships to share knowledge and giving effect to our Treaty obligations.

Our beaches, coastlines and estuaries are highly valued by our communities. Implementation breathes life into policy to protect, preserve and manage the use of these highly valued coastal resources. Effective RCEP implementation includes our communities. We need to continue to invest in connecting and involving our communities in local coastal projects. This is particularly important when considering the future challenges of climate change adaptation. It is understood that when communities are involved in local projects and decision making they are more resilient and have a greater sense of wellbeing.

The coastal marine environment includes an overlap of responsibilities with multiple agencies. When possible, we aim to work with other government agencies to assist with sharing assets and knowledge and combining resources to achieve shared outcomes. This also applies to working with Local Government NZ to identify and collaborate on common priorities.

It is recommended that the following efficiency and effectiveness criteria are used to determine priorities for implementing the RCEP:

- Supports core regulatory and compliance functions (essential services);
- Adds value and aligns to existing projects (adding to existing budgets);
- Supports internal collaboration (explore how to help teams achieve their goals and subsequently deliver the RCEP);
- Enables involvement of tangata whenua in projects (build capacity); and
- Informs and engages our communities.
- Utilises existing resources with multiple agencies and collaborates with territorial authorities and other regional councils on common priorities.

## 1.2 How do we prioritise implementation of the methods in the RCEP?

The Bay of Plenty Regional Council's Long Term Plan 2018-28 identifies real world outcomes which align with the methods in the RCEP. For example, improvement to water quality through a combination implementing rules through the Natural Resources Plan and planting and restoration of catchments are steps to help achieve the *real world outcome of swimmable water and healthy seafood* for the coastal environment. Another two relevant examples include providing technical input into structure plans to reduce coastal hazards and delivering on actions set out in the Climate Change Action Plan also deliver *the real world outcome of safe and resilient communities*. These

Council priorities will help to determine priorities for delivering the methods in the RCEP. Priority should also be given to those RCEP projects that can achieve multiple outcomes identified across the range of Council plans<sup>1</sup>.

Following the assessment of Council's community outcomes and the range of Council plans, the following additional criteria has been developed to measure the implementation of the RCEP methods:

- includes climate change and adaption measures;
- involves Tangata whenua;
- provides multiple environmental outcomes;
- supports national direction (NPS/NES);
- aligns with Council plan priorities; and
- has the ability to influence and enable communities to be resilient.

## Monitoring and Reporting on RCEP Implementation

It is suggested that the following initiatives be supported to assist with RCEP implementation:

- Where appropriate, any new proposals for work/projects include reference to the method of RCEP that it will be contributing to (corporate reporting/templates),
- Existing projects that have been identified as contributing to RCEP implementation be required to report on progress against RCEP implementation,
- An annual update be provided to Council on RCEP project deliverables (added value projects), and
- It is proposed that a review is completed in 2023 to measure and monitor current implementation. Any gaps identified will be used to inform the next planning review cycle that will start with pre-consultation in 2027.

The approach outlined in this paper has identified efficiencies by working in collaboration across the organisation to use existing budgets and resources. In light of COVID-19 the need to be flexible and efficient in approach is more necessary than ever. This paper identifies significant opportunities to align Council plan priorities with the RCEP implementation and therefore achieve multiple environmental outcomes. It is considered appropriate to concentrate resources where possible. It is recommended that the two sets of criteria outlined above be combined to provide a robust process to select any additional RCEP implementation project work.

Combined criteria to identify areas of support for implementation:

- ✓ Supports core regulatory and compliance functions;

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<sup>1</sup> Regional Natural Resources Plan, Regional Air Plan, Regional Pest Management Plan, Climate Change Action Plan, Regional Policy Statement, Science Monitoring Plan, Annual Plan, Long Term Plan, Catchment Action Plans, Coast Care Long Term Plan.

- ✓ Adds value to existing projects, supports national direction and focus on achieving multiple environmental outcomes;
- ✓ Includes climate change and adaption measures;
- ✓ Supports internal collaboration (explore how to help teams achieve their goals and subsequently deliver the RCEP);
- ✓ Enables involvement of tangata whenua in projects (build capacity);
- ✓ Informs and engages our communities, with a view to enabling communities to be resilient; and
- ✓ Utilises existing resources with multiple agencies and collaborates with territorial authorities and other regional councils on common priorities.

Stacey Faire  
**Senior Coastal Planner**