

Notice is given that an ordinary meeting of the Environment and Regulatory Committee will be held on:

**Date:** Thursday 6 June 2024  
**Time:** 9:30 am  
**Meeting Room:** Tasman Council Chamber  
**Venue:** 189 Queen Street, Richmond  
**Zoom conference link:** <https://us02web.zoom.us/j/85153313268?pwd=8cydSFUsD6fozCRSv0J3d27s1vbTCA.1>  
**Meeting ID:** 851 5331 3268  
**Meeting Passcode:** 275373

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## Environment and Regulatory Committee

### Komiti Ture

# AGENDA

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#### MEMBERSHIP

<b>Chairperson</b>	Cr C Hill	
<b>Deputy Chairperson</b>	Cr B Maru	
<b>Members</b>	Mayor T King	Cr M Greening
	Deputy Mayor S Bryant	Cr C Mackenzie
	Cr C Butler	Cr M Kininmonth
	Cr G Daikee	Cr K Maling
	Cr B Dowler	Cr D Shallcrass
	Cr J Ellis	Cr T Walker

(Quorum 7 members)

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## AGENDA

**1 OPENING, WELCOME, KARAKIA**

**2 APOLOGIES AND LEAVE OF ABSENCE**

**Recommendation**

**That apologies be accepted.**

**3 PUBLIC FORUM**

Nil

**4 DECLARATIONS OF INTEREST**

**5 LATE ITEMS**

**6 CONFIRMATION OF [MINUTES](#)**

**That the minutes of the Environment and Regulatory Committee meeting held on Wednesday, 24 April 2024, be confirmed as a true and correct record of the meeting.**

**That the open and confidential minutes of the Animal Control Subcommittee meeting held on Wednesday, 24 April 2024, be confirmed as a true and correct record of the meeting.**

**That the minutes of the Dangerous Dams Policy Hearings and Deliberations Panel meeting held on Wednesday, 22 May 2024, be confirmed as a true and correct record of the meeting.**

**7 REPORTS**

7.1	Status and prospects of the marine farming industry in Tasman and Golden Bays. ....	4
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7.3	Referral - Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams .....	14

**8 CONFIDENTIAL SESSION**

Nil

**9 CLOSING KARAKIA**

## 7 REPORTS

### 7.1 STATUS AND PROSPECTS OF THE MARINE FARMING INDUSTRY IN TASMAN AND GOLDEN BAYS.

<b>Report To:</b>	Environment and Regulatory Committee
<b>Meeting Date:</b>	6 June 2024
<b>Report Author:</b>	Jody Connor, Executive Assistant, Environmental Assurance
<b>Report Authorisers:</b>	Kim Drummond, Group Manager - Environmental Assurance
<b>Report Number:</b>	RRC24-06-1

#### 1. Presentation / Whakatakotoranga

Ned Wells (Marine Farming Association), Hemi Toia (Maara Moana) and Gary Hooper (Aquaculture New Zealand) will make a presentation to the Environment and Regulatory Committee on the status and prospects of the marine farming industry in Tasman and Golden Bays.

#### 2. Attachments / Tuhinga tāpiri

Nil

## 7.2 GROUP MANAGER'S REPORT

Information Only - No Decision Required

<b>Report To:</b>	Environment and Regulatory Committee
<b>Meeting Date:</b>	6 June 2024
<b>Report Author:</b>	Kim Drummond, Group Manager - Environmental Assurance
<b>Report Authorisers:</b>	Steve Manners, Chief Operating Officer
<b>Report Number:</b>	RRC24-06-2

### 1. Summary / Te Tuhinga Whakarāpoto

- 1.1 To update the Environment and Regulatory Committee on environmental and regulatory activity since the last Committee meeting on 24 April 2024.

### 2. Recommendation/s / Ngā Tūtohunga

**That the Environment and Regulatory Committee**

1. receives the Group Manager's report RRC24-06-2.

### 3. New Government's legislative and policy priorities

#### Resource Management Reform Programme

- 3.1 In the Group Manager's report for the 24 April 2024 meeting of the Environment and Regulatory Committee, councillors were reminded of the three phases of legislative reform, with phase one (being the repeal of recent legislation) being complete.
- 3.2 Phase two of the reform programme includes making targeted changes to the Resource Management Act 1991, via two separate Bills. The first Bill was introduced into the house on 23 May 2024 as the Resource Management (Freshwater and Other Matters) Amendment Bill. Key elements of the Bill are about:
  - 3.2.1 Making it clear that resource consent applicants no longer need to demonstrate their proposed activities follow the Te Mana o te Wai hierarchy of regulations, as set out in the current National Policy Statement for Freshwater Management (NPS-FM)
  - 3.2.2 Suspending the requirements for councils to identify new Significant Natural Areas (SNAs) in accordance with the National Policy Statement for Indigenous Biodiversity (NPS-IB) for tock exclusion regulations in relation to sloped land
  - 3.2.3 Repealing intensive winter grazing regulations
  - 3.2.4 Aligning the consenting pathway for coal mining with the pathway for other mining activities in the NPS-IB, NPS-FM, and the National Environment Standards for Freshwater (NES-F)
  - 3.2.5 Speeding the process to develop or amend national direction, such as national policy statements and national environment standards.

- 3.3 At the time of writing, the bill was set down for its first reading and to be referred to the Primary Production Select Committee for submissions. Staff have yet to consider the value of a submission from the Council, over relying on a submission from Te Uru Kahika that will address implications for regional responsibilities. Councillor guidance on that point is sought.
- 3.4 The second amendment bill will focus on short term targeted changes that will have impact while long-term Resource Management Act 1991 (RMA) replacement policy is developed. The scope of that bill is still being developed but is likely to include a suite of changes to current national direction.
- 3.5 Phase three will involve replacing the RMA with new legislation based on the enjoyment of property rights. For developers this will mean a more efficient and effective process for consenting residential developments.

### **Freshwater Farm Plans**

- 3.6 The coalition Government has signalled an intention to improve freshwater farm plan (FW FP) regulations to ensure they are pragmatic and cost effective. In recognition of this the Ministry for the Environment (MFE) is taking a light touch approach to the implementation of the FW FP regulations. The MFE is also engaging with stakeholder groups to develop policy ideas that will inform improvements made to the FW FP system.
- 3.7 MFE has also advised that it intends to engage with Te Uru Kahika on three streams of work over the next three months to inform its advice to ministers. These are:
  - 3.7.1 The formal pause of implementation – largely completed
  - 3.7.2 The Industry Assurance Programme (IAP) pathway standards – currently underway but wider engagement through June
  - 3.7.3 The certification/audit process and what a risk-based approach should look like.
- 3.8 Te Uru Kahika has formed a reference group for this work and has recommended a set of principles to guide the review to Regional Council Chief Executives (RCEOs). These principles continue to be consistent with those outlined in the Group Manager's report for the 24 April 2024 meeting of the Environment and Regulatory Committee. MFE has advised that this work is closely linked to the advice it is developing on adjustments to the NPS-FW and the NES-F.

### **Fast Track Consenting Bill**

- 3.9 The Committee retrospectively approved a submission from the Council to the Fast Track Consenting Bill at its meeting of 24 April 2024. At the time of writing the Council did not have a date and time to appear before the Select Committee, but other Councils were being periodically contacted with dates and a short notice.

### **Inquiry into climate adaptation**

- 3.10 Public submissions are now open for the Finance and Expenditure Committee's Inquiry into climate adaptation. The closing date for submissions is midnight on Sunday 16 June 2024. The inquiry has a terms of reference that can be found at [Inquiry into climate adaptation - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz/en/committees/finance-and-expenditure-committee/inquiry-into-climate-adaptation).
- 3.11 The Committee must finally report on the inquiry by 5 September 2024.

### **Proposed Minerals Strategy to 2040**

- 3.12 The Government is proposing a draft Minerals Strategy to enable a long term, strategic approach to how New Zealand develops our mineral resources. It considers the minerals

sector is currently facing major challenges. These include lack of complete understanding of our minerals ecosystem, supply chain risks, and a regulatory system that needs to be improved to enable investment.

- 3.13 The development of a minerals strategy is proposed as a first step in ensuring New Zealand has a strategic framework for resource production so that development and economic growth off the back of our minerals happens in a responsible manner. The proposed strategy is built on three key pillars (enhancing prosperity for New Zealanders, demonstrating the sectors value, and delivering minerals for a clean energy transition).
- 3.14 The draft strategy can be found at [Proposed minerals strategy to 2040 | Ministry of Business, Innovation & Employment \(mbie.govt.nz\)](https://www.mbie.govt.nz/propose-minerals-strategy-2040). Consultation closes on 31 July 2024.

#### **4. Maritime Matters - Projects and Recent Developments**

- 4.1 At the 24 April 2024 meeting of the Environment and Regulatory Committee, the new Harbourmaster (HM) presented the first Harbourmaster Report following its excision from the more general Regulatory Manager's report. Subsequent to that report, discussion also took place within the Operations Committee regarding the challenges associated with moving the harbourmaster vessel around the district by road. The article is available at <https://www.stuff.co.nz/nz-news/350277928/harbourmaster-not-rescue-service>
- 4.2 In view of the higher profile being given to the harbourmaster service, an update of activity is included here.

##### **Storm Impact on Navigation**

- 4.2.1 An April storm disrupted navigation in the Motueka channel, moving seven channel markers and one large fairway buoy. The buoys were quickly relocated to their correct positions and the ground tackle assessed for suitability.
- 4.2.2 The risk lies in misdirecting vessels if the markers have shifted, especially since the Council advertises safe water areas. The Harbourmaster's Office (HMO) is upgrading ground tackle on the outer markers. This will increase the safety of this channel.

##### **Inter-Agency Signage**

- 4.2.3 The project to improve inter-agency signage is progressing well, with design and printing quotes obtained. A presentation has been provided to the Golden Bay Community Board highlighting that the area is to be the initial focus of attention.
- 4.2.4 The HMO is applying for a community grant through the Safer Boating Forum to enhance navigation signage throughout Tasman.
- 4.2.5 Navigation Safety Bylaw
- 4.2.6 The HM is collaborating closely with the policy team and other HMOs across Te Taihu regarding the updating of Navigation Safety Bylaws. Approval will be sought from the Environment and Regulatory Committee to initiate the public consultation process.

##### **Large Vessel Management and Anchoring**

- 4.2.7 HMO is plans five additional anchorages along the Abel Tasman coastline. Benthic survey work is underway in collaboration with the science team. These anchorages

will be included in the navigation safety bylaw and costs for establishing the system will be recovered from users of authorised anchorages.

### **MV Sentinel**

- 4.2.8 The HMO is towing Sentinel from the shed in Motueka to the ramp, a distance of approximately 400m, on the road. This is only done as leaving Sentinel in the water for longer duration will degrade the vessel; she is not designed to be an in-water boat. We also need to refuel out of a mini tank on the back of a HMO utility vehicle. This is a high-risk activity so for extra safety we do this in our yard with appropriate precautionary measures in place.
- 4.2.9 Sentinel is now due for a refit. A work schedule will address wiring, corrosion, software issues, and antenna interference. The aim is to minimise downtime during the refit.

### **Recreational vessel and marine farm interaction in Tasman Bay**

- 4.2.10 In early May a recreational vessel left its fishing spot at the south end of AMA3 in Tasman Bay and accelerated to 25 km/h. The operator believed they were clear of the mussel farm, even though they were still inside the reserve area. However, the vessel was in a block of unused backbones that had been sunk back in November.
- 4.2.11 It is understood that the vessel impacted one of these lines causing the operator to be thrown into the bottom of the boat, unable to move for about 3.5 hours. The coastguard arrived and towed the vessel into Motueka for an awaiting ambulance. Injuries included broken ribs and fractured vertebrae.
- 4.2.12 The HM issued an exclusion zone for recreational vessels and conducted five site inspections to ensure compliance. The Notice was lifted in mid-May when all hazards were addressed by the owners/operators of the lines.

### **Navigation Safety SIG and Safer Boating Forum**

- 4.2.13 The Navigation Safety Special Interest Group (SIG) is part of the Te Uru Kahika network. It recently met in Wellington at time scheduled to cross over with a meeting of the Safer Boating Forum.
- 4.2.14 The HM attended both events and the feedback was that it was a valuable experience and allowed one to one interactions with both colleagues and industry experts.

### **Oil Pollution Levy Funding Constraints**

- 4.2.15 With the current restrictive spending environment, Maritime NZ has advised it will scale back on paying responders for their time for training courses and exercises. It has also cancelled the oil spill conference for this year.
- 4.2.16 The implication is that staff time associated with preparing for oil spill events will no longer be funded by Maritime NZ.

<b>5. Building Assurance</b>
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### **Building industry activity in Tasman**

- 5.1 As of 2 May 2024, residential building consents across the country were down, with a significant drop in Tasman. For the fourth consecutive month, Tasman is down 58% year on year, compared to a nationwide drop of 25%.



**Building Consent Authority Accreditation maintained**

- 5.2 In October 2023, Building Assurance had a positive International Accreditation New Zealand (IANZ) audit. The organisation responsible for Biennial accreditation assessments for Building Consent Authorities. The purpose of the building consent authority accreditation scheme is to set out the minimum policies, procedures, and systems that a building consent authority must have, and consistently and effectively implement, to perform its building control functions. Five General Non Compliances (GNC) were found. All five GNCs were cleared on 3 May 2024, and we have continued accreditation.
- 5.3 Tasman remains a low-risk BCA and will continue with the two-year cycle of assessments.

**Earthquake-prone building system review**

- 5.4 The Government has brought forward the review of the Earthquake-prone buildings (EPB) system to this year to identify improvements in the way New Zealand manages seismic risk in existing buildings.
- 5.5 The review is underway, and the Government has indicated an intention to amend the Building Act to extend all non-lapsed EPB remediation deadlines by four years, with an option of extending a further two years if required.
- 5.6 Extensions are intended to apply automatically, and councils will re-issue earthquake-prone building notices to all eligible buildings, once the amendments to the Act are made (expected by end of 2024). This will help keep implementation costs low and provide clarity and certainty to owners and councils.
- 5.7 While eligible building owners will have more time to strengthen or demolish their earthquake-prone building following these changes, all other earthquake-prone building requirements under the Building Act will continue to apply. Once the review is completed, further legislative changes to the Act may be made.
- 5.8 Further information about the review and legislation to extend remediation deadlines will be made available throughout 2024. With the limited information at present, indications are that the Richmond office should fall into this category and the deadline would be pushed out to 2037 with a two-year extension if required.

**Ministry of Business Innovation and Employment (MBIE) Building Consent System Performance Monitoring**

- 5.9 This establishes consistent monitoring on the performance of the building consent system, with a particular focus on building consent and code compliance certificate timeframes. The data is supplied by Building Consent Authorities (BCAs) across the country.
- 5.10 Timeframes for building consent and/or code compliance certificate approval are some of the key indicators for building consent system performance. Delays in the system can have flow-on effects for builders and homeowners and can limit the capacity of the industry to work as efficiently and quickly as possible.
- 5.11 By establishing regular performance monitoring, MBIE aims to identify and address these delays promptly, thereby enhancing our operational and system efficiency.
- 5.12 During the first quarter of 2024, a total of 15,736 applications for building consents, including amendments, and 15,125 applications for Code Compliance Certificates (CCCs), including Certificates of Acceptance (COAs), were processed.
- 5.13 Out of all the building consent applications, 88.0% were processed within the statutory timeframe. The median processing time for these applications was 13.2 working days. Of the

Tasman building consents, 99.6% were issued within the statutory time frame and processing time was five working days.

- 5.14 The median processing time for CCCs was much shorter at five working days, and 93.6% of the applications were processed within the statutory timeframe. Tasman CCCs were issued in three working days.

## 6. Regulatory

### Court matters

- 6.1 The Council brought charges against an unlicensed café operator, who has pled guilty to two representative charges – knowingly selling food from an unregistered food business and failing to comply with a direction of notice served under section 305 of the Food Act 2014. The next step in this case will be the sentencing.
- 6.2 There are four cases currently before the Court; two under the District Court and two enforcement order applications that are before the Environment Court:
- 6.2.1 Discharge of contaminants from a rural industrial activity in Brightwater where there have been systemic problems with managing leachate and stormwater run-off from the site. Proceedings have commenced against the company and directors.
- 6.2.2 A landowner from the Murchison area is alleged to have destroyed a significant area (close to 10 hectares) of indigenous forest without a resource consent. Proceedings have commenced against the landowner and company. In addition, court orders have been sought to require fencing and pest control to remediate and protect the remaining natural vegetation on the property.
- 6.2.3 Application for an enforcement order has been made to require an unauthorised structure in Motueka (which is allegedly being used for residential activity) to be reverted to its original purpose - a garage.
- 6.2.4 A second application for enforcement order has been made in relation to a “tiny home” in the Moutere that is being used for residential activity without the necessary resource consent. The matter will be heard before the Court later this month.

## 7. Resource Consents

### Subdivision applications lodged since March 2024

- 7.1 The resource consents section has received a number of large notable subdivision applications since March 2024 that collectively signal an indifferent fit to the Future Development Strategy (FDS). Below is a summary of each of these subdivisions. We have one contract planner processing three of these (the first three listed) but do not yet have an experienced planner (internally or externally) to process the other two.

#### **RM240192 et al - Tahimana – 141 lot subdivision – Awa Awa Road**

- 7.2 This application is for a 141 lot subdivision in the Rural 3 Zone. It is proposed to create 101 residential lots (between 590m<sup>2</sup> and 3200m<sup>2</sup>), 38 rural lifestyle lots (between 5000m<sup>2</sup> and 2.11 hectares) and two rural lots (11.4 hectares and 5.68 hectares). The two rural lots contain waterway and wetland areas.

- 7.3 Lots are also proposed to vest in Council for roads, network utilities and a local purpose reserve. Land use consent is sought to construct a future dwelling on each of the 141 lots.
- 7.4 There will be a private wastewater treatment system for the 101 residential lots. The remaining 40 rural lifestyle/rural lots will each be provided with onsite wastewater discharge at time of building consent. In terms of water supply, this is still to be finalised with Council's infrastructure team but there will be some allocation from Council's water supply for the residential lots and the allocated supply will also be used to provide fire-fighting water supply for all lots in the subdivision. The rural lifestyle lots will be provided with onsite potable water supply.
- 7.5 Stagecoach Road will provide access to the subdivision, and it is proposed to upgrade the road from the end of the current sealed section.
- 7.6 This site was rejected under the FDS for 600 lots due to not being aligned with preferred strategy and performed very poorly under multi criteria assessment (MCA). There were also significant cultural impacts raised.
- 7.7 The subdivision application includes a record of iwi consultation, a Cultural Values Statement and a Cultural Impact Assessment. Two iwi have expressed interest in the application and consultation is ongoing.

**RM240162 et al – Kamana Estate – 26 lot – 3 Nile Road**

- 7.8 This application is for a 26 lot subdivision in the Rural 3 Zone. The lots range in size from 4800m<sup>2</sup> to 2.13 hectares, with land use consent sought to construct a future dwelling on each lot. The subdivision also includes a private reserve, road to vest and a walkway. Balance land has been set aside for future development. The lots will be serviced with onsite water supply and wastewater and stormwater disposal. All systems will remain in private ownership. The application proposes to extend and upgrade Nile Road, including provision of a shared path.
- 7.9 The application does not identify any cultural concerns and an Accidental Discovery Protocol is volunteered. Two iwi have expressed an interest in the application and consultation is ongoing.
- 7.10 This site was rejected under the FDS for 250 lots due to not being aligned with preferred strategy and performed poorly under MCA.

**RM240148 et al – Fairmont View – 33 lot – 53 Seaton Valley Road**

- 7.11 This application is for a 33 lot residential subdivision in the Rural 1 (Deferred Residential) Zone. The lots range in size from 450m<sup>2</sup> to 1007m<sup>2</sup>.
- 7.12 The application was originally lodged last year as a 111 lot subdivision. The applicant was advised that the proposal did not align with the policy direction and regulations of the NPS - FM and the National Environmental Standards for Freshwater. The applicant subsequently withdrew that application and applied for what is essentially Stage 1 of the subdivision, being 33 lots.
- 7.13 The subdivision is proposed to be accessed via an extension to Catherine Road, with five lots gaining access from a right of way off Seaton Valley Road. Two lots are proposed to vest as reserve and will form an extension to Catherine Reserve. Reticulated water,

wastewater and stormwater is proposed for all residential lots. Servicing of the subdivision is still to be finalised with Council's infrastructure team.

7.14 The application includes a summary of consultation undertaken with iwi. One iwi has expressed interest in the application and the applicant has advised that consultation is ongoing.

7.15 This was not an FDS site.

#### **RM240241 – Tasman Bay Estates – 58 lot – 77 Mamaku Road**

7.16 This application proposes to subdivide 40 hectares held in 6 existing titles into 58 rural lifestyle allotments ranging from around 1400m<sup>2</sup> to around 3500m<sup>2</sup>, with part of the balance land (3 titles) to be held in common by the 58 rural lifestyle lots and managed by the Residents Association.

7.17 The application proposes three roads to vest, right of ways and balance land to be held in common ownership.

7.18 Multiple associated resource consents will be required for the development including a land use consent to construct a future dwelling on each of the 58 lots; discharge consents for stormwater, wastewater, plus resource consents for earthworks, disturbing the bed of, and divert two existing watercourse and disturbing soils that are contaminated.

7.19 A number of technical reports have been provided that outline and assess the proposed subdivision, including a Landscape Assessment, Traffic Impact Assessment & Road Safety Audit, Geotechnical Investigation, Detailed Site Investigation, Ecological Assessment, and Land Productivity Assessment.

7.20 This site was rejected under the FDS for 1,200 lots due to not being aligned with preferred strategy and performed very poorly under MCA.

7.21 The application has been submitted in a reduced form to that submitted to the FDS to be considered as a development under the existing Rural 3 Zoning. Cultural effects have been addressed as part of the application but still need to be reviewed by staff, if complete.

7.22 This application has not been checked for completeness and the applicant has agreed to place this consent on hold until we have a senior planner back in the subdivision team after maternity leave in June.

#### **RM240274 – Hop Field Development – 36 residential lots – 91 Poole St**

7.23 This application proposes to subdivide Residential Zones land located at 91 Poole Street into 36 residential allotments, a drainage lot, a local purpose reserve, 2 new roads to vest in Council and a Right of Way. The proposed allotments range from 251m<sup>2</sup> to 740m<sup>2</sup>, with a larger title of 1720m<sup>2</sup> to accommodate the existing dwelling. There are multiple additional resource consent applications associated with the subdivision for land use, stormwater discharge, and disturbing soils that are contaminated.

7.24 A number of technical reports have been provided that outline and assess the proposed subdivision. At the time of writing this application has not been allocated to a staff member or checked for completeness.

**1. Attachments / Tuhinga tāpiri**

Nil

### 7.3 REFERRAL - POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS

<b>Report To:</b>	Environment and Regulatory Committee
<b>Meeting Date:</b>	6 June 2024
<b>Report Author:</b>	Amy Smith, Community Policy Advisor; Elaine Stephenson, Team Leader - Democracy Services
<b>Report Authorisers:</b>	Kim Drummond, Group Manager - Environmental Assurance
<b>Report Number:</b>	RRC24-06-3

#### 1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 To adopt the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams, as recommended by the Dangerous Dams Policy Submissions and Deliberations Hearings Panel.

#### 2. Summary / Te Tuhinga Whakarāpototo

- 2.1 At its 22 May 2024 deliberations meeting, the Dangerous Dams Policy Submissions and Deliberations Hearings Panel resolved as follows:

*SH24-05-1*

*That the Dangerous Dams Policy Hearings and Deliberations Panel*

- 1. receives the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams - Deliberations RSH24-05-1; and*
- 2. receives and considers the submission on the draft Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams; and*
- 3. recommends to the Environment and Regulatory Committee that pursuant to Section 161 of the Building Act 2004, it adopts the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams (Attachment 2 to the agenda report) with amendments, if any, and*
- 4. notes that the Hearing and Deliberation Panel's recommendations will be presented to the Environment and Regulatory Committee for consideration on 6 June 2024.*

- 2.2 The report (and attachment) to the 22 May 2024 Dangerous Dams Policy Submissions and Deliberations Hearings Panel meeting is attached (Attachment 1).

**3. Recommendation/s / Ngā Tūtohunga**

**That the Environment and Regulatory Committee**

- 1. receives the Referral - Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams report RRC24-06-3; and**
- 2. in accordance with Section 161 of the Building Act 2004, adopts the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams in Attachment 1 of the agenda report.**

**4. Attachments / Tuhinga tāpiri**

- |                      |  |    |
|----------------------|--|----|
| 1. <a href="#">↓</a> | Report to 22 May 2024 Dangerous Dams Policy Hearings and Deliberations Panel meeting | 16 |
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### 3.2 POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS - DELIBERATIONS

Decision Required

<b>Report To:</b>	Submissions Hearing
<b>Meeting Date:</b>	22 May 2024
<b>Report Author:</b>	Amy Smith, Community Policy Advisor
<b>Report Authorisers:</b>	Kim Drummond, Group Manager - Environmental Assurance
<b>Report Number:</b>	RSH24-05-1

#### 1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 The purpose of this report is to:
- 1.1.1 provide the Submissions Hearing and Deliberations Panel (the Panel) with the submission received during consultation on the draft policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams (the policy); and
  - 1.1.2 provide the Panel with information to support its deliberations; and
  - 1.1.3 seek decisions on any amendments to the policy; and
  - 1.1.4 seek a recommendation from the Panel on whether the policy should be adopted.

#### 2. Summary / Te Tuhinga Whakarāpoto

- 2.1 This report has been prepared to assist the Panel to deliberate on the submission received on the draft policy during the public consultation period.
- 2.2 The Panel can then make decisions on any amendments to the policy and on its recommendation to the Environment and Regulatory Committee (the Committee) on whether the final policy should be adopted.
- 2.3 There was one submission (Attachment 1) received by the closing date. The submission was made on behalf of Irrigation New Zealand and the submitter does not wish to be heard at today's Hearing.
- 2.4 Staff have provided a summary of the submission and their advice to assist the deliberations (see Section 5).
- 2.5 The final policy is scheduled to be presented to the Committee on 6 June 2024, with the Panel's recommendation on whether the policy should be adopted.



**POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS - DELIBERATIONS**
**3. Recommendation/s / Ngā Tūhonga**
**That the Submissions Hearing**

1. receives the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams - Deliberations RSH24-05-1; and
2. receives and considers the submission on the draft Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams; and
3. recommends to the Environment and Regulatory Committee that pursuant to Section 161 of the Building Act 2004, it adopts the Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams (Attachment 2 to the agenda report) with amendments, if any, and
4. notes that the Hearing and Deliberation Panel's recommendations will be presented to the Environment and Regulatory Committee for consideration on 6 June 2024.

**4. Background / Horopaki**
**The Building Act 2004 and the Building (Dam Safety) Regulations 2022**

- 4.1 Section 161 of the Building Act 2004 requires a regional authority to adopt a policy on dangerous dams, earthquake-prone dams and flood-prone dams within their region. The purpose of this policy is to help prevent the catastrophic failure of a potentially dangerous dam, and to ensure deficiencies in an earthquake-prone or flood-prone dam are addressed.
- 4.2 The Building Act also requires the Council to take action, if necessary, if any dam poses an immediate danger to the safety of persons, property or the environment, and to provide building consent processing and inspections service for large dams.
- 4.3 The Building (Dam Safety) Regulations 2002 (the Regulations) came into effect on 13 May 2024 introducing further responsibilities on regional authorities and dam owners. The Regulations set a minimum requirement for dam safety with a post-construction risk-based nationwide regulatory framework.
- 4.4 The Council has responsibilities for administering and monitoring implementation of the Regulations. This involves approving or refusing dam classifications and dam safety assurance programmes, receiving annual dam compliance certificates, and establishing and maintaining a register of dams in the Tasman District.

**The Policy on Dangerous Dams, Earthquake-prone Dams and Flood-prone Dams**

- 4.5 Regional authorities have been working collaboratively to produce a policy that is fit for purpose nationwide and the draft policy reflects this work. The policy sets out Tasman District Council's approach for fulfilling and prioritising its functions around these types of dams and covers our regulatory and legislative responsibilities under the Building Act. The policy also states how it will be applied to heritage dams.
- 4.6 The Government announced on 28 March 2024 that it would be changing the definition of a classifiable dam and this change was signalled in the consultation document. On 7 May, the

## **POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS - DELIBERATIONS**

Government amended the meaning of a 'classifiable dam' in regulation 5 of the Regulations. Dams are now defined as classifiable if they are four or more metres in height and store 20,000 or more cubic metres volume of water, or other fluid. The policy has been amended to align with the change to the Regulations.

- 4.7 Dangerous dams are defined in section 7 below. Section 153B of the Building Act requires a dam owner to immediately notify the Council if, at any time, they have reasonable grounds for believing that their dam is, or has become, dangerous. The policy provides direction to the Council on how to respond, should we be notified of a dangerous dam within the Tasman District.
- 4.8 The policy does not seek to classify dams, regulate adherence to the Regulations, or cover consenting matters under the Resource Management Act 1991 or the Building Act 2004.

### **5. Analysis and Advice / Tātaritanga me ngā tohutohu**

#### **Consultation process**

- 5.1 At its meeting on 28 March 2024, the Council agreed to undertake consultation between 1 April and 5 May 2024 using the special consultative procedure (SPC), in accordance with sections 83 and 87 of the Local Government Act 2002 (see RCN24-03-13).
- 5.2 Copies of the statement of proposal and draft policy were available at all public libraries and the Council's service centres in Tasman and for download from Shape Tasman.
- 5.3 Approximately 50 owners of larger dams in the District (i.e. four or more metres in height) were directly emailed a copy of the consultation document and provided with information on how to make a submission.
- 5.4 Some key stakeholders were emailed about the consultation, including Richmond Fire and Emergency NZ, Nelson Tasman Civil Defence and Emergency Management (NT-CDEM) Group and Heritage New Zealand Pouhere Taonga. Other potentially interested parties were also emailed, including Waimea Irrigators and Irrigation NZ, Federated Farmers, Horticulture NZ and AgFirst, Engineering NZ, NZTA, Network Tasman and Transpower.
- 5.5 The Department of Conservation (DOC) office in Tākaka was directly contacted, as staff wanted to specifically draw attention to the unknown heritage status of Druggan's Dam located in the Aorere Goldfields on DOC land.
- 5.6 Submissions could be made via the Shape Tasman consultation page or via email. There were 213 'visits' to the Shape Tasman consultation page by 169 visitors during the consultation period. Information about the policy and the consultation was advertised in Newsline on 5 April. This information was also shared on 9 April in a post on the Council's Facebook page.

#### **Submission summary and staff comments**

- 5.7 There was limited interest from the community in commenting on the draft policy. This could be due to the largely operational and technical nature of the policy, and it only directly affects dam owners and their engineers.

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**POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS - DELIBERATIONS**

- 5.8 One submission (Attachment 1) was received, via email. This submission was made on behalf of Irrigation New Zealand (INZ), an organisation representing over 3,800 members nationally including irrigation schemes, individual irrigators, and the irrigation service sector.
- 5.9 INZ is supportive of the policy, commending the Council for its approach to the policy and the effort to make the regulatory process as straightforward as possible. INZ acknowledges that navigating Council policies can be complex for rural dam owners and that the requirement for councils to adopt a position on dam safety through policies has been set by the Government.
- 5.10 The submission from INZ suggested some aspects of the policy that may still be ambiguous, but that these arise largely from the Building Act and Regulations. For example, that the regulations do not necessarily identify earthquake-prone and flood-prone dams. Staff agree and have raised this previously with the Ministry of Building, Innovation and Employment (MBIE). Staff note that care has been taken not to bring the requirements of the regulations into the scope of this policy.
- 5.11 INZ noted in the draft policy the objective to maintain a database for *all* dams and suggested that the inclusion of *all* dams within the Building Act and Regulations continues to create confusion about the applicability to such minor structures as duck ponds, effluent ponds, canals, constructed wetlands, and now dams under 4 m and 20,000 m<sup>3</sup>. Staff agree with this feedback and recommend to the Panel that *all* is removed from the first sentence of section 3.1 of the policy, so it aligns with s151 of the Building Act.
- 5.12 Note that any dam can become dangerous. Dams falling below the threshold requirements of the regulations must also be located and recorded; the policy does not just apply to dams under the regulations, rather it applies to dams as defined in section 7 of the Building Act.
- 5.13 Staff advise that the NT-CDEM Group has reviewed the policy and confirm they are comfortable with the content.

**Submission hearing and deliberation purpose**

- 5.14 The role of the Deliberations Panel is to consider the submission received, deliberate and decide on whether to recommend proceeding with the proposed policy. The Panel could also recommend changes to the proposed wording in the policy for the Council's consideration. However, the submitter did not seek specific changes to the wording in the policy and only a minor amendment (deletion) is recommended by staff. Note that the definition of a classifiable dam has also been updated to align with the recent amendment to the regulations.
- 5.15 Staff consider no further wording changes are needed to the policy, should the Panel decide to recommend it for adoption by the Council.
- 5.16 The Panel's recommendations will be presented to the Committee for consideration at its next meeting on 6 June 2024.

**POLICY ON DANGEROUS DAMS, EARTHQUAKE-PRONE DAMS AND FLOOD-PRONE DAMS - DELIBERATIONS**
**6. Options / Kōwhiringa**

6.1 Adopting a policy on dangerous dams is required by the Building Act. The Panel has two options to consider, as outlined below:

6.1.1 Option One: proceed with the policy as consulted on, or with amendments, and recommend to the Committee that the policy is adopted.

This option complies with the requirements of the Building Act and the Council will have an appropriate policy in place to manage dangerous dams in Tasman.

6.1.2 Option Two: do not proceed with the policy, based on the comments made by the submitter, and recommend to the Committee that the policy is not adopted.

The Council would continue to be in breach of its statutory requirements under the Building Act and, if a dangerous dam were to occur, there would be no current policy.

6.2 Staff recommend Option One.

**7. Legal / Ngā ture**

7.1 The Building Act 2004 requires the Council to establish and maintain a register of dams in the District.

7.2 Dangerous dams are defined as:

**s153 Meaning of dangerous dam**

(1) A dam is dangerous for the purposes of this Act if the dam—

- (a) is a high potential impact dam or a medium potential impact dam; and
- (b) is likely to fail—
  - (i) in the ordinary course of events; or
  - (ii) in a moderate earthquake (as defined in the regulations); or
  - (iii) in a moderate flood (as defined in the regulations).

7.3 Earthquake-prone and flood-prone dams are defined as:

**s153A Meaning of earthquake-prone dam and flood-prone dam**

(1) A dam is an earthquake-prone dam for the purposes of this Act if the dam—

- (a) is a high potential impact dam or a medium potential impact dam; and
- (b) is likely to fail in an earthquake threshold event (as defined in the regulations).

(2) A dam is a flood-prone dam for the purposes of this Act if the dam—

- (a) is a high potential impact dam or a medium potential impact dam; and
- (b) is likely to fail in a flood threshold event (as defined in the regulations).

7.4 The adoption of a policy on dangerous dams is required under section 161 of the Building Act. The Building Act required that the policy be in place within 18 months of the































