

Reprint
as at 19 December 2018



Hawke's Bay Regional Planning Committee Act 2015

Public Act 2015 No 65
Date of assent 14 August 2015
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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Preamble

- (1) Discussions between the Crown, the Hawke's Bay Regional Council (the **Council**), Tūhoe, and tāngata whenua of Hawke's Bay in the context of Treaty settlement negotiations have identified a need for greater tāngata whenua involvement in the management of natural resources in the RPC region:
- (2) In the Deed of Settlement dated 17 December 2010 between the Crown and Ngāti Pāhauwera, the Crown committed to establish a committee comprised of an equal number of Council members and representatives of Treaty settlement claimant groups whose role would relate to natural resource planning processes that affect the region, and include drafting and recommending to the Council, plan and policy changes affecting natural resources in the region:
- (3) The Deed of Settlement dated 25 May 2013 between the Crown and the Maungaharuru-Tangitū Hapū records that the trustees of the Maungaharuru-Tangitū Trust, the Council, and other Hawke's Bay iwi and hapū have agreed interim terms of reference for the committee that were adopted by the Council on 14 December 2011:
- (4) The committee is already operating, but legislation is required to ensure that the committee cannot be discharged except by unanimous written agreement of the appointers and to confirm its role and procedures:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Hawke's Bay Regional Planning Committee Act 2015.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Preliminary provisions

3 Purpose

- (1) The purpose of this Act is to improve tāngata whenua involvement in the development and review of documents prepared in accordance with the Resource Management Act 1991 for the Hawke's Bay region.
- (2) To that end, this Act establishes the Hawke's Bay Regional Planning Committee as a joint committee of the Hawke's Bay Regional Council.

4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

appointer means—

- (a) a tāngata whenua appointer:
- (b) the Council

appointer for Ngāti Ruapani ki Waikaremoana,—

- (a) if section 5(3) applies, means the mandated body or governance entity for Ngāti Ruapani ki Waikaremoana (as the case may be):
- (b) if section 5(3) does not apply, means the Council acting on the instruction of Ngāti Ruapani ki Waikaremoana

Council means the Hawke's Bay Regional Council

Council member means a member of the RPC appointed by the Council under section 11(1)(j)

governance document, in relation to a tāngata whenua appointer that is a governance entity, means the trust deed or other document by which the tāngata whenua appointer is constituted and governed

governance entity means the post-settlement governance entity established by an iwi or a hapū and approved by the Crown for the purposes of receiving redress in the settlement of the historical Treaty of Waitangi claims of that iwi or hapū

Hawke's Bay Regional Planning Committee or **RPC** means the Hawke's Bay Regional Planning Committee established by section 7

Heretaunga Tamatea Settlement Trust means the trust of that name established by a trust deed dated 30 June 2015

interim committee means the committee established by the Council on 27 April 2011 under clause 30(1) of Schedule 7 of the Local Government Act 2002 to oversee the development and review of the regional policy statement and regional plans for the RPC region in accordance with the interim terms of reference

interim terms of reference means the terms of reference for the interim committee adopted by the Council on 14 December 2011, including any amendments made to those terms of reference before the commencement of this Act

local government legislation means—

- (a) the Local Government Act 2002; and
- (b) the Local Government Official Information and Meetings Act 1987; and
- (c) the Local Authorities (Members' Interests) Act 1968

Mana Ahuriri Incorporated means the incorporated society known by that name incorporated on 6 April 2009

Maungaharuru-Tangitū Trust means the trust established by trust deed dated 18 December 2012

members, in relation to the RPC, means each tāngata whenua member and each Council member

Ngāti Pāhauwera Development Trust means the trust established by trust deed dated 27 September 2008

Ngati Tuwharetoa Hapu Forum Trust means the trust established by trust deed in 2009

RMA document means any of the following required under the RMA in relation to the RPC region:

- (a) a regional policy statement or proposed regional policy statement;
- (b) a regional plan or a proposed regional plan

RPC region has the same meaning as Hawke's Bay Region in clause 3 of the Local Government (Hawke's Bay Region) Reorganisation Order 1989 (13 June 1989) 99 *New Zealand Gazette* at 2334

specified legislation means—

- (a) this Act; and
- (b) the local government legislation; and
- (c) the relevant provisions of the Resource Management Act 1991

tāngata whenua appointer, subject to section 5,—

- (a) means—
 - (i) the trustees of the Maungaharuru-Tangitū Trust, on behalf of the Maungaharuru-Tangitū Hapū:

- (ii) the trustees of the Ngāti Pāhauwera Development Trust, on behalf of Ngāti Pāhauwera:
 - (iii) the trustees of Tūhoe Te Uru Taumatua, on behalf of Tūhoe:
 - (iv) the trustees of Ngati Tuwharetoa Hapu Forum Trust, on behalf of Ngāti Tūwharetoa:
 - (v) Mana Ahuriri Incorporated, on behalf of the Mana Ahuriri hapū:
 - (vi) the trustees of Te Kōpere o te iwi o Hineuru Trust, on behalf of Ngāti Hineuru:
 - (vii) the trustees of the Heretaunga Tamatea Settlement Trust, on behalf of the hapū of Heretaunga and Tamatea:
 - (viii) Te Tira Whakaemi o Te Wairoa, on behalf of Wairoa iwi and hapū:
 - (ix) the appointer for Ngāti Ruapani ki Waikaremoana, on behalf of Ngāti Ruapani ki Waikaremoana; and
- (b) includes, in relation to a tāngata whenua appointer that is a governance entity, a delegate of, or a successor to, that appointer if the delegation or succession complies with the requirements of the governance document of the appointer

tāngata whenua member means a member of the RPC appointed under section 11(1)(a) to (i)

Te Kōpere o te iwi o Hineuru Trust means the trust of that name established by a trust deed dated 17 March 2015

Te Kotahitanga o Ngāti Tūwharetoa means the trustees of the trust of that name established by a trust deed dated 11 April 2017

Te Tira Whakaemi o Te Wairoa means the unincorporated body of persons established by deed of mandate recognised by the Crown on 4 February 2011 to represent Wairoa iwi and hapū

terms of reference—

- (a) means the interim terms of reference; and
- (b) includes any amendments to the terms of reference

trustees of the Heretaunga Tamatea Settlement Trust means the trustees, in their capacity as trustees, of that trust

trustees of the Maungaharuru-Tangitū Trust means the trustees, in their capacity as trustees, of that trust

trustees of the Ngāti Pāhauwera Development Trust means the trustees, in their capacity as trustees, of that trust

trustees of the Te Kōpere o te iwi o Hineuru Trust means the trustees, in their capacity as trustees, of that trust

trustees of Tūhoe Te Uru Taumatua means the trustees, in their capacity as trustees, of that trust

Tūhoe Te Uru Taumatua means the Tūhoe Trust established by trust deed dated 5 August 2011.

- (2) In this Act,—
- (a) **change, proposed policy statement, regional plan, regional policy statement, and variation** have the same meanings as in section 43AA of the Resource Management Act 1991; and
 - (b) **proposed plan** has the same meaning as in section 43AAC of the Resource Management Act 1991.

Section 4(1) **Te Kotahitanga o Ngāti Tūwharetoa**: inserted, on 19 December 2018, by section 188(3) of the Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55).

Section 4(1) **trustees of the Ngāti Tuwharetoa Hapu Forum Trust**: repealed, on 19 December 2018, by section 188(2) of the Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55).

5 Definition of tāngata whenua appointer modified if the Crown approves governance entity or recognises mandated body

- (1) This section applies if, after the commencement of this Act, the Crown—
- (a) approves a governance entity for—
 - (i) Mana Ahuriri hapū; or
 - (ii) Ngāti Tūwharetoa; or
 - (iii) Wairoa iwi and hapū;
 - (b) recognises a mandated body to represent Ngāti Ruapani ki Waikaremoana in historical Treaty of Waitangi claims settlement negotiations;
 - (c) approves a governance entity for Ngāti Ruapani ki Waikaremoana.
- (2) If any of subsection (1)(a)(i) to (iii) applies, the tāngata whenua appointer for the relevant iwi or hapū is, despite the definition of tāngata whenua appointer in section 4, that governance entity.
- (3) If subsection (1)(b) or (c) applies, the appointer for Ngāti Ruapani ki Waikaremoana is, despite the definition of that term in section 4, that mandated body or governance entity (as the case may be).

6 Act binds the Crown

This Act binds the Crown.

Part 2

Hawke's Bay Regional Planning Committee

RPC established

7 RPC established

This section establishes the RPC as a statutory body.

8 Status of RPC

- (1) Despite the membership of the RPC provided by section 11, the RPC is a joint committee of the Council deemed to be appointed under clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.
- (2) Despite Schedule 7 of the Local Government Act 2002, the RPC must not be discharged except with the written unanimous agreement of the appointers.

Purpose, functions, and powers of RPC

9 Purpose of RPC

- (1) The purpose of the RPC is to oversee the development and review of the RMA documents prepared in accordance with the Resource Management Act 1991 for the RPC region.
- (2) To avoid doubt, nothing in this Act limits the obligations of the Council under the Resource Management Act 1991 or the Local Government Act 2002 in respect of Māori within the RPC region.

10 Functions and powers of RPC

- (1) The primary function of the RPC is to achieve the purpose of the RPC.
- (2) In achieving the purpose of the RPC, the RPC may—
 - (a) consider the RMA documents and recommend to the Council for public notification the content of any draft—
 - (i) change to the regional policy statement or regional plan:
 - (ii) proposed regional policy statement or proposed regional plan:
 - (iii) variation to a proposed regional policy statement, proposed regional plan, or change; and
 - (b) monitor the efficiency and effectiveness of the RMA documents in accordance with section 35 of the Resource Management Act 1991; and
 - (c) implement a work programme for the review of the RMA documents; and
 - (d) perform any other function specified in the terms of reference.
- (3) For the purposes of enabling the RPC to carry out its functions, the Council must—
 - (a) refer all matters referred to in subsection (2)(a) to the RPC; and
 - (b) provide all necessary documents or other information to the RPC.
- (4) The RPC has the powers reasonably necessary to carry out its functions in a manner consistent with the specified legislation.

*Membership of RPC***11 Membership of RPC**

- (1) The RPC consists of an equal number of tāngata whenua members and Council members as follows:

Tāngata whenua members

- (a) 1 member appointed by the trustees of the Maungaharuru-Tangitū Trust:
- (b) 1 member appointed by the trustees of the Ngāti Pāhauwera Development Trust:
- (c) 1 member appointed by the trustees of Tūhoe Te Uru Taumatua:
- (d) 1 member appointed by the trustees of the Te Kotahitanga o Ngāti Tūwharetoa:
- (e) 1 member appointed by Mana Ahuriri Incorporated:
- (f) 1 member appointed by the trustees of Te Kōpere o te iwi o Hineuru Trust:
- (g) 1 member appointed by Te Tira Whakaemi o Te Wairoa:
- (h) 2 members appointed by the trustees of the Heretaunga Tamatea Settlement Trust:
- (i) 1 member appointed by the appointer for Ngāti Ruapani ki Waikaremoana:

Council members

- (j) 10 members appointed by the Council (who must be councillors of the Council holding office and, if there is an insufficient number of councillors, such other persons appointed by the Council in accordance with clause 31(3) of Schedule 7 of the Local Government Act 2002).
- (2) Each appointer must—
- (a) in the case of the initial appointment of members of the RPC—
 - (i) make an appointment before the first meeting of the RPC; and
 - (ii) notify all other appointers in writing of the appointment:
 - (b) in the case of any subsequent appointment of a member to the RPC, notify the RPC in writing of an appointment and provide a copy of the notice to all other appointers as soon as is reasonably practicable.
- (3) If a tāngata whenua appointer fails to appoint a tāngata whenua member in accordance with this Act, then the number of Council members on the RPC is reduced proportionately until an appointment is made to ensure that the RPC consists of an equal number of tāngata whenua members and Council members.
- (4) If a tāngata whenua member fails to attend 3 out of any 5 consecutive meetings of the RPC without the prior written agreement of all other members,—

- (a) the tāngata whenua member's appointment is deemed to be discharged; and
 - (b) the number of Council members on the RPC is reduced proportionately until a replacement member is appointed by the relevant tāngata whenua appointer.
- (5) To avoid doubt, a tāngata whenua member is not, by virtue of the person's membership of the RPC, a member of the Council.

Section 11(1)(d): amended, on 19 December 2018, by section 188(4) of the Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55).

Other matters

12 Terms of reference of RPC

- (1) The terms of reference must provide for—
- (a) the quorum for meetings of the RPC;
 - (b) how the RPC will be administered;
 - (c) the procedures relating to meetings of the RPC, decision making by the RPC, and dispute resolution, including for the purposes of section 10(2)(a), a procedure—
 - (i) for the Council to refer back to the RPC for reconsideration any recommendation made by the RPC but not adopted by the Council (whether in whole or in part); and
 - (ii) for the RPC to provide further recommendations to the Council;
 - (d) how the costs of administering and operating the RPC will be met by the Council, including—
 - (i) the costs of any advice required by the RPC; and
 - (ii) a procedure for determining the remuneration to be paid to tāngata whenua members and reimbursement of their expenses.
- (2) The terms of reference may be amended by the written unanimous agreement of the appointers.
- (3) The terms of reference must be consistent with the specified legislation.
- (4) In the event of an inconsistency between the obligations of the Council under the terms of reference and its obligations under the specified legislation, the specified legislation prevails.

13 First meeting of RPC

The first meeting of the RPC must be held no later than 6 months after the commencement of this Act.

*Application of local government legislation***14 Application of local government legislation to RPC**

(1) The provisions of the local government legislation apply, with any necessary modifications, to the RPC—

- (a) to the extent that they are relevant to the purpose and functions of the RPC as a joint committee of the Council; and
- (b) except as otherwise provided for in this Act.

Schedule 7 of Local Government Act 2002

(2) The following provisions of Schedule 7 of the Local Government Act 2002 (**Schedule 7**) apply only to Council members:

- (a) clause 6(1)(b) (which relates to the remuneration of chairpersons of committees of local authorities):
- (b) clause 12 (which relates to payments):
- (c) clause 31(1) and (3) (which relate to membership of committees or sub-committees of local authorities).

(3) The following provisions of Schedule 7 do not apply to the RPC:

- (a) clause 23(3)(b) (which relates to a quorum):
- (b) clause 24 (which relates to voting):
- (c) clause 25 (which relates to voting systems for certain appointments):
- (d) clause 26 (which relates to the chairperson of meetings):
- (e) clause 27 (which relates to standing orders):
- (f) clause 30(3), (5)(a), and (7) (which relate to committees):
- (g) clause 31(2), (4), and (6) (which relate to membership of committees and subcommittees):
- (h) clause 32A (which relates to the issuing of warrants).

Section 3 of Local Authorities (Members' Interests) Act 1968

(4) Section 3 of the Local Authorities (Members' Interests) Act 1968 applies only to Council members.

Local Government Official Information and Meetings Act 1987

(5) The Local Government Official Information and Meetings Act 1987 applies to the RPC and official information held by the RPC with the modifications set out in subsection (6).

(6) Section 7(2) of the Local Government Official Information and Meetings Act 1987 must be read as if the following paragraphs were added:

- (k) avoid serious offence to tikanga of any iwi or hapū represented by a tāngata whenua appointer as defined in section 4 of the Hawke's Bay Regional Planning Committee Act 2015; or

- (1) avoid the disclosure of the location of wāhi tapu of significant interest to any iwi or hapū represented by a tāngata whenua appointer as defined in section 4 of the Hawke's Bay Regional Planning Committee Act 2015.

Further provisions

15 Further provisions relating to RPC

The Schedule contains further provisions relating to the RPC.

Schedule

Further provisions relating to RPC

s 15

1 Term of appointment

- (1) Subject to this Act,—
 - (a) a tāngata whenua member is appointed to the RPC for the period specified by the relevant tāngata whenua appointer:
 - (b) a Council member is appointed to the RPC for a term commencing with the first meeting of the Council after the triennial general election of members of a local authority under the Local Electoral Act 2001 and ending with the close of the day before the next triennial general election.
- (2) However, if a Council member is appointed after the date of the first meeting of the Council referred to in subclause (1)(b), the member is appointed from that date until the close of the day before the next triennial general election.
- (3) To avoid doubt, the appointment of a tāngata whenua member is not affected by the triennial general election of members of a local authority under the Local Electoral Act 2001.

2 Discharge of membership

- (1) A member may be discharged by that member's appointer.
- (2) If subclause (1) applies, the member's appointer must, within 10 working days after the date on which the member was discharged,—
 - (a) notify the RPC in writing that the member has been discharged; and
 - (b) provide a copy of the notice to all other appointers.

3 Resignation of membership

- (1) A tāngata whenua member may resign by giving written notice to that person's appointer.
- (2) A tāngata whenua appointer must, on receiving a notice given under subclause (1), forward a copy of the notice to the RPC and the chief executive of the Council.

4 Vacancies

- (1) If a vacancy occurs on the RPC, the relevant appointer must fill the vacancy as soon as is reasonably practicable.
- (2) A vacancy does not prevent the RPC from continuing to perform its functions or exercise its powers.

5 Co-chairpersons

- (1) The RPC has the following co-chairpersons:
 - (a) 1 member appointed by the tāngata whenua members:
 - (b) 1 member appointed by the Council members.
- (2) Each co-chairperson must be appointed on or before the first meeting of the RPC.
- (3) Each co-chairperson is to preside at meetings of the RPC on a pre-arranged basis.
- (4) The co-chairpersons may deputise for each other at meetings of the RPC.
- (5) A co-chairperson may be appointed or discharged in accordance with the terms of reference.

6 Standing orders

- (1) At its first meeting, the RPC must adopt a set of standing orders for the operation of the RPC regarding any matters not provided for in this Act or in the terms of reference.
- (2) The RPC may amend the standing orders at any time.
- (3) The standing orders adopted by the RPC must not contravene—
 - (a) this Act; or
 - (b) the terms of reference; or
 - (c) tikanga Māori; or
 - (d) subject to paragraph (a), the local government legislation or any other enactment.
- (4) Every member of the RPC must comply with the standing orders of the RPC.

7 Decision making

- (1) The decisions of the RPC must be made by vote at meetings in accordance with the terms of reference.
- (2) A co-chairperson of any meeting may vote on any matter but does not have a casting vote.

8 Procedural matters

- (1) The RPC may, except as provided in this Act or in the terms of reference, regulate its own procedure.
- (2) The RPC must, at its first meeting, confirm the appointments of the co-chairpersons referred to in clause 5(2) and state the terms of those appointments.
- (3) Despite clause 19(2) of Schedule 7 of the Local Government Act 2002, a tāngata whenua member—
 - (a) has the right to attend any meeting of the RPC; but

- (b) does not have the right to attend meetings of the Council by reason merely of the person's membership of the RPC.

9 Conflict of interest

- (1) Each member of the RPC must disclose any actual or potential interest to the RPC.
- (2) The RPC must maintain an interests register.
- (3) A member of the RPC is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter merely because—
 - (a) the member is a member of an iwi or a hapū; or
 - (b) the economic, social, cultural, and spiritual values of an iwi or a hapū and their relationship with the RPC are advanced by or reflected in—
 - (i) the subject matter under consideration; or
 - (ii) any decision by or recommendation of the RPC; or
 - (iii) participation in the matter by the member.
- (4) In subclause (1), **interest** does not include an interest that a member may have through an affiliation with an iwi or a hapū that has customary interests in the RPC region.

10 Reporting and review by RPC

- (1) The Council must include in its annual report prepared under section 98 of the Local Government Act 2002 information about—
 - (a) the activities of the RPC during the previous 12 months; and
 - (b) how those activities are relevant to the purpose and functions of the RPC.
- (2) Appointers—
 - (a) must, no later than 3 years after the date of the first meeting of the RPC, undertake a review of the performance of the RPC; and
 - (b) may undertake any subsequent review of the RPC at a time agreed by all appointers.
- (3) Appointers may, following a review, make recommendations to the RPC on relevant matters arising from the review.

11 Service of notices

- (1) A notice sent to a person in accordance with this Act must be treated as having been received by that person, if the notice is sent—
 - (a) by post, at the time which it would have been delivered in the ordinary course of post;
 - (b) by email or fax, at the time of transmission.

- (2) A notice required to be given by this Act is not invalid because a copy of it has not been given to any or all of the persons concerned.

12 Administration of RPC

The Council must provide technical and administrative support to the RPC in the performance of its functions.

Reprints notes

1 *General*

This is a reprint of the Hawke's Bay Regional Planning Committee Act 2015 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55): section 188