



To: Hon Amy Adams, Minister for the Environment
Hon Nick Smith, Minister of Conservation

Tukituki Catchment Proposal – call in request and matters lodged with the Environmental Protection Authority

Other Dept Tracking Number:		MfE Tracking Number:	13-B-00881
Date Submitted:		MfE Priority:	Urgent
Security Level:	IN CONFIDENCE	Number of Attachments:	Two
Action Sought:	Approval/Agreement Forward to others Sign attachment	Response/Signature Needed by:	16 May 2013 (in order to be lodged with Cabinet office in time for CBC on 20 May 2013)

Ministry for the Environment Contacts

Position	Name	Telephone (cell)	Telephone (work)	1st Contact
Principal author	S9(2)(a)		S9(2)(a)	
Responsible Manager	Natasha Tod	S9(2)(a)	04 439 7716	✓
Director	Kevin Currie		04 439 7590	

Department of Conservation Contacts

Position	Name	Telephone (cell)	Telephone (work)	1st Contact
Manager, Planning Section	Guy Kerrison	S9(2)(a)	04 494 1470	✓
Deputy Director General, Policy and Regulatory Services	Doris Johnston	S9(2)(a)	04 471 3100	

Environmental Protection Authority Contacts

Position	Name	Telephone (cell)	Telephone (work)	1st Contact
Principal author	Andrew Crosland		04 474 5478	✓
Responsible Manager	Fay Holdom		04 474 5484	
General Manager	Sarah Gardner	S9(2)(a)	04 474 5496	

Executive Summary

- The purpose of this briefing note is to:
 - Provide the Environmental Protection Authority's (EPA) recommendation on the national significance of the Tukituki Catchment Proposal under sections 144A and 146 of the Resource Management Act 1991 (RMA).
 - Seek your agreement to sign and submit the attached Cabinet paper noting your intention to jointly decide that the Tukituki Catchment Proposal is a proposal of national significance, of which the Tukituki Plan Change 6 and the Ruataniwha

Water Storage Scheme are parts, and should be referred to a board of inquiry for a decision.

2. The Tukituki Catchment Proposal is comprised of the following two parts:
 - Tukituki Plan Change 6 (Plan Change 6), a proposed Hawke's Bay Regional Council initiated plan change for the Tukituki River catchment. Plan Change 6 was publically notified by the Council on 4 May 2013. On 6 May 2013, the Hawke's Bay Regional Council requested that you call in Plan Change 6.
 - The Ruataniwha Water Storage Scheme, which involves the construction of a substantial dam structure on the Makaroro River to enable the capture and storage of some 90 million cubic metres of water for irrigation. The Hawke's Bay Regional Investment Company lodged a Notice of Requirement and 17 resource consent applications for the scheme with the Environmental Protection Authority (EPA) on 6 May 2013.
3. The Ruataniwha Water Storage Scheme application includes a resource consent application for beach nourishment near the mouth of the Tukituki River. This activity will take place in the coastal marine area and therefore section 148(2) of the RMA applies. Section 148(2) requires that the Environment and Conservation Ministers be jointly involved in the decision making process for determining the national significance or otherwise of the proposal, any direction to a board of inquiry, Environment Court, or back to the local authority, and any board of inquiry appointments.
4. In addition, Cabinet Office Circular CO (06)7 requires that if you are proposing to call in a proposal, that you should refer the issue to Cabinet for discussion before making a decision.
5. The EPA has recommended (see Appendix Two to the attached Cabinet paper) that the Tukituki Catchment Proposal meets the criteria for national significance under section 142 of the RMA. The EPA recommends that you call in Plan Change 6 and direct both parts of the Tukituki Catchment Proposal to a board to inquiry for consideration together.
6. There is a restricted time period available for you to call in the plan change. If you jointly decide that the plan change is to be called in, you are required to make that decision no later than 5 working days after the close of the council submissions period (section 144(a) of the RMA). Submissions close on 31 May 2013, therefore, you must make your direction on or before 10 June 2013.
7. The Minister for the Environment has advised that she would like to discuss the Tukituki Catchment Proposal with Cabinet on 27 May 2013. To meet this timeframe it is suggested a Cabinet paper is considered by Cabinet Business Committee on 20 May 2013.

Situation Analysis

The Tukituki Catchment Proposal

8. The Tukituki Catchment Proposal comprises two independent, but closely linked parts - the Ruataniwha Water Storage Scheme and Tukituki Plan Change 6 (Plan Change 6).
9. On 4 May 2013 the Hawke's Bay Regional Council publically notified Plan Change 6. Plan Change 6 will alter the management of land and water in the Tukituki catchment under the Hawke's Bay Regional Resource Management Plan.
10. Hawke's Bay Regional Council has requested that you call in Plan Change 6 as part of a nationally significant proposal by directing that it be referred to a board of inquiry. Section 144(a) of the RMA requires that, should you decide to call in Plan Change 6,

that your direction must be made no later than 5 working days after the close of the council submissions period (i.e. no later than 10 June 2013).

11. Under the RMA, a council initiated plan change is not a matter that can be lodged directly with the EPA (section 145(1)), but can be called in by the relevant Minister by referring the matter to a board of inquiry if it is, or is part of, a nationally significant proposal (section 142(1)).
12. In addition, on 6 May 2013 the Hawke's Bay Regional Investment Company lodged a Notice of Requirement and 17 resource consent applications for the Ruataniwha Water Storage Scheme with the EPA. The Ruataniwha Water Storage Scheme involves the construction, operation and maintenance of a large dam and reservoir on the Makaoro River and associated irrigation canal infrastructure on the Ruataniwha Plains (within the Tukituki Catchment).
13. Part of the proposed mitigation for the Ruataniwha Water Storage Scheme includes an activity in the coastal marine area (beach nourishment near the mouth of the Tukituki River). This means that the Ruataniwha Water Storage Scheme triggers the requirements of section 148(2) of the RMA, that the Environment and Conservation Ministers will need to be jointly involved in the decision making process for determining the national significance or otherwise of the proposal, any direction to a board of inquiry, Environment Court, or back to the local authority, and any board of inquiry appointments.

Advice

National Significance

14. The EPA has prepared a recommendation for you to consider in deciding whether the Tukituki Catchment Proposal is a proposal of national significance of which Plan Change 6 and the Ruataniwha Water Storage Scheme are parts and whether to refer it to a board of inquiry (Appendix Two of the attached Cabinet paper).
15. The EPA recommends that the Tukituki Catchment Proposal is nationally significant and that Plan Change 6 and the Ruataniwha Water Storage Scheme are parts of that proposal because:
 - The matters meet a number of factors of national significance set out in section 142(3) of the RMA as they:
 - would involve significant use of natural and physical resources (section 142(3)(a)(ii));
 - would result in significant change to the environment (section 142(3)(a)(v));
 - would affect more than one region or district (section 142(3)(a)(ix));
 - would be likely to be significant in terms of section 8 of the RMA (Treaty of Waitangi) (section 142(3)(a)(vii)); and
 - has aroused widespread public interest regarding its actual or likely effects on the environment (section 142(3)(a)(i)).
 - The applicants have indicated that they consider the Tukituki Catchment Proposal to be nationally significant and therefore that Plan Change 6 and the Ruataniwha Water Storage Scheme are parts of a proposal of national significance;
 - The relevant local authorities (Hawke's Bay Regional Council, Central Hawke's Bay District Council and Hastings District Council) have also indicated their view that the Proposal meets at least some of the tests for national significance. In addition, the

local authorities note that they currently lack the capacity to process the matters;
and

- The Proposal and its parts are considered to be nationally significant within the broader context of the Government's Business Growth Agenda, the Irrigation Acceleration Fund, and the work of the Land and Water Forum. It will also contribute to implementing two National Policy Statements – the National Policy Statement for Freshwater Management and the National Policy Statement for Renewable Electricity Generation.
16. The EPA recommends that the Tukituki Catchment Proposal be referred to a board of inquiry as:
- The board of inquiry process is designed specifically to consider matters of national significance. The board of inquiry process also allows for local input into the composition of the board as suggestions for board members are sought from each of the local authorities concerned;
 - Hawke's Bay Regional Council has stated that they do not consider that they have the capacity of the perceived level of independence to process this proposal;
 - Directing these matters to a board of inquiry provides for a decision within a nine month statutory timeframe. Central Hawke's Bay District Council has indicated a preference for the Proposal being referred to a board of inquiry as the certainty of timeframe will assist in their district plan review; and
 - Plan Change 6 represents one stage of the Hawke's Bay Regional Council's notified Progressive Implementation Plan to implement the National Policy Statement for Freshwater Management. Directing this part of the proposal to the same board of inquiry as the Ruataniwha Water Storage Scheme will ensure decision making for the Tukituki Catchment is managed holistically.

Process for referring the matters, being parts of the Tukituki Catchment Proposal to a board of inquiry

17. Should you agree that the Tukituki Catchment Proposal is a proposal of national significance of which the matters are parts you will need to discuss this matter with your Cabinet colleagues before making a direction for the Proposal to be decided by either the Environment Court or a board of inquiry (see Cabinet Office Circular CO (06)7).
18. Following your discussion with Cabinet you must decide whether to call in Plan Change 6 and whether to refer the Tukituki Catchment Proposal as a whole to a board of inquiry. Should you decide to refer the Tukituki Catchment Proposal to a board of inquiry, you should sign the Ministerial Direction attached at Appendix Two.
19. There is a restricted time period available for you to call in Plan Change 6. If you jointly decide that Plan Change 6 is to be called in, you are required to make that decision no later than 5 working days after the close of the council submissions period (section 144(a)). Submissions close of May 31, therefore, you must make your direction on or before 10 June 2013.

Involvement in the Board of Inquiry Process

20. Under section 146(2)(a)(i) the EPA may recommend that the Crown make a submission on the matter. We have sought the views of a number of departments (listed below in paragraph 31) as to how the Crown could be involved in the board of inquiry process.

h) If, after discussion with your Cabinet colleagues, you direct that the Tukituki Catchment Proposal is to be considered by a board of inquiry:

a. **Sign** the attached Ministerial Direction (Appendix Two) to refer the Tukituki Catchment Proposal to a board of inquiry; Yes / No

b. **Agree** to recover from the applicant the actual and reasonable costs incurred in relation to the Tukituki Catchment Proposal board of inquiry process Yes / No

i) **Note** that, if you decide to direct the Tukituki Catchment Proposal to a board of inquiry, the Environmental Protection Authority, Ministry for the Environment, and Department of Conservation will provide you with a further Cabinet paper and documentation required to appoint a board of inquiry

j) **Note** that there may be merit in a Crown submission on the Tukituki Catchment Proposal

k) **Agree** to discuss the merits of a Crown submission with your Cabinet colleagues Yes / No

l) **Agree** to direct officials to prepare a Crown submission if one is required Yes / No

Kay Harrison
Director, Water Reform
Ministry for the Environment

Date

Doris Johnston
Deputy Director General
Department of Conservation

Date

Sarah Gardner
General Manager, Applications and Assessment
Environmental Protection Authority

Date

Hon Amy Adams
Minister for the Environment

Date

Hon Dr Nick Smith
Minister of Conservation

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory		2 = Fell short of my expectations in some respects		3 = Met my expectations	
4 = Met and sometimes exceeded my expectations		5 = Greatly exceeded my expectations			

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



To: Hon Nick Smith, Minister of Conservation
Hon Amy Adams, Minister for the Environment

Board of Inquiry Appointments – Tukituki Catchment Proposal, Hawke's Bay

Other Dept Tracking Number:	ENQ-22595-0QWBHH	MfE Tracking Number:	13-B-00969
Date Submitted:		MfE Priority:	Non-Urgent
Security Level:	13 JUN 2013 IN CONFIDENCE	Number of Attachments:	Two
Action Sought:	Direction	Response/Signature Needed by:	20 June 2013

Ministry for the Environment Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Principal Author	S9(2)(a)		S9(2)(a)	
Responsible Manager	Natasha Toa	S9(2)(a)	04 439 7716	✓
Director	Kevin Currie		04 439 7590	

Department of Conservation Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Peer Reviewer/Responsible Manager	Guy Kerrison	S9(2)(a)	04 494 1470	✓
Deputy Director General	Doris Johnston		04 471 3100	

Environmental Protection Authority Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Peer Reviewer	Shaun Lewis	S9(2)(a)	04 474 5479	✓
Responsible Manager	Fay Holdom		04 474 5484	
General Manager	Sarah Gardner		04 474 5496	

Executive Summary

- The purpose of this briefing note is to seek your direction on the appointment of a board of inquiry for the Tukituki Catchment Proposal and to seek your agreement to submit the attached Cabinet paper to the Appointment and Honours Committee on 25 June 2013.
- The Tukituki Catchment Proposal comprises two related parts:
 - Tukituki Plan Change 6, a proposed Hawke's Bay Regional Council-initiated plan change to the Regional Resource Management Plan for the Tukituki River catchment. Plan Change 6 was publically notified by the Council on 4 May 2013. On 6 May 2013, the Hawke's Bay Regional Council requested that you call in Plan Change 6.

- The Ruataniwha Water Storage Scheme, involving the construction of a dam on the Makaroro River and includes a Notice of Requirement and 17 resource consent applications lodged with the Environmental Protection Authority (EPA) on 6 May 2013.
3. On 5 June 2013 you directed that Tukituki Plan Change 6 and the Ruataniwha Water Storage Scheme be referred to a board of inquiry for a decision.
 4. The EPA, the Ministry for the Environment (MfE), and the Department of Conservation (DoC), have previously briefed you about potential board members on 7 May 2013, and the EPA provided you with further advice on 17 May 2013, 27 May 2013, and 6 June 2013. On 11 June 2013 you indicated who the potential board of inquiry members would be.
 5. We attach a Cabinet paper and the documentation required to discuss these potential appointments with your Cabinet colleagues.

Situation Analysis

6. The Tukituki Catchment Proposal is comprised of the two related parts:
 - The proposed Tukituki Plan Change 6 (Plan Change 6), a proposed Hawke's Bay Regional Council initiated plan change for the Tukituki River catchment. The proposed Plan Change 6 seeks to address specific water allocation and water quality issues in the Tukituki River Catchment. The proposed Plan Change 6 was publically notified by the Council on 4 May 2013. On 6 May 2013, the Hawke's Bay Regional Council requested that you call in Plan Change 6.
 - The Ruataniwha Water Storage Scheme, which involves the construction, operation, and maintenance of a dam/storage reservoir on the Makaoro River, a small (6.5 megawatt) hydro-electric generation plant, and intakes, headrace canals, pipelines and outfalls together creating a water distribution network on the Ruataniwha Plains (within the Tukituki Catchment). The Ruataniwha Water Storage Scheme also includes beach nourishment near the mouth of the Tukituki River. The Hawke's Bay Regional Investment Company lodged a Notice of Requirement and applications for 17 resource consents applications for the scheme with the Environmental Protection Authority (EPA) on 6 May 2013.
7. On 5 June 2013 you directed that proposed Tukituki Plan Change 6 and the Ruataniwha Water Storage Scheme should be considered together by board of inquiry for a decision under sections 142(2) and 147(1) of the Resource Management Act 1991 (RMA).
8. On 22 March 2013 the EPA provided the Minister for the Environment with a briefing note requesting advice about the size and composition of a potential board of inquiry for the Tukituki Catchment Proposal. In response to that briefing the EPA assembled options for a board comprising five members, including the Chairperson.
9. On 7 May 2013, 17 May 2013, 27 May 2013 and 6 June 2013 you were provided with advice on suitable candidates for a potential board of inquiry for the Tukituki Catchment Proposal. You recommended the appointment of:
 - Justice Lester Chisholm (as chairperson);
 - Environment Commissioner Russell Howie (as member);
 - Loretta Lovell (as member);
 - Alec Neill (as member);and
 - Matthew Lawson (as member).

Advice

10. Following your decision that the Tukituki Catchment Proposal be directed to a board of inquiry, Section 148(2) of the RMA requires that you jointly appoint a board of inquiry. Attached are the necessary documents you require to take this proposal to Cabinet for discussion with your Cabinet colleagues. These are:
 - A Cabinet paper for discussion;
 - A CAB 100 paper recording consultation on the cabinet paper
 - Curriculum vitae (CAB 50s) for each of the nominated board members and the Current Membership Form (CAB 51); and
 - A draft letter from the Minister for the Environment to the Minister of State Services seeking agreement to use the standing exception of fees for the board of inquiry.
11. The Cabinet paper and documentation (CAB 50, 51 and 100) for discussing the appointment of a board of inquiry is complete. If the Cabinet paper is submitted to Cabinet Office by 20 June 2013 it could be considered by the Appointments and Honours Committee on 25 June 2013.
12. Justice Chisholm is not officially retired until 10 July 2013 and the Board of Inquiry cannot be formally constituted until this date. Justice Chisholm is also on leave until mid-August 2013. As there are procedural decisions the Board needs to make shortly after it is constituted, the EPA would like to speak with Justice Chisholm prior to 10 July 2013 about how the Board can make decisions during his absence.

Exceptional Fees

13. Cabinet Business Committee [CBC Min (13) 1/2 refers] provided for fees for boards of inquiry established under section 147J of the RMA as minor/technical exceptions under the Cabinet Fees Framework. These exceptions are to be agreed between the Minister of State Services and yourselves.
14. Attached is a draft letter to the Minister of State Services, Hon Dr Jonathan Coleman from the Minister for the Environment, seeking agreement to use this standing exception for the payment of fees for the roles of chairperson and members of the Tukituki Catchment Proposal Board of Inquiry. We ask that the Minister for the Environment please sign this letter and send it to the Minister of State Services (on behalf of both of you) prior to taking the attached Cabinet paper to the Cabinet Appointment and Honours Committee.

Crown Involvement in the Board of Inquiry Process

15. On 20 May 2013 CBC noted that there may be merit in a Crown submission and agreed that officials investigate how the Crown should be involved in the board of inquiry process [CBC Min (13) 3/9 refers].
16. Officials have discussed how submissions should be made to the board of inquiry and do not consider there is a need for a Crown submission for the Tukituki Catchment Proposal.
17. While officials do not consider it necessary for the Crown as a whole to make a submission individual departmental submissions can be made. The Ministry for the Environment does not usually make submissions on individual proposals.

18. The Department of Conservation has recently met with the Hawke's Bay Regional Council to discuss questions the Department has relating to nutrient management and how this is dealt with in the plan provisions. It is likely that the Board would want to hear about the concession that is required from DOC for the approximately 22 hectares of Forest Park that would be flooded by the proposed dam. The Department is still assessing the supporting information to determine what advice it may provide to the Board of Inquiry.
19. The Ministry for Primary Industries has advised that it is having further discussions internally with regard to whether to make a submission on the proposal.
20. Officials will share with other relevant agencies their intentions with respect to making any individual submissions on the proposal.

Risks and Mitigations

21. The appropriate enquiries concerning conflicts of interest have been carried out with each of the proposed board members. No potential conflicts have been identified.
22. Letters of appointment for the board of inquiry will set out the process to be followed should any conflict of interest issues arise during the course of the inquiry.

Consultation

23. EPA consults annually with departments on possible candidates for boards of inquiry. In addition, as required by Section 149K of the RMA, the EPA has also sought suggestions for members of the board of inquiry from the relevant local authorities. The EPA also sought suggestions for potential board members from the Ministry of Primary Industries and the Ministry of Women's Affairs.

Next steps

24. Following your discussion of potential board members with your Cabinet colleagues, the EPA will provide you with letters of appointment and the Terms of Reference for the board chairperson and each of the board members for your signature.

Recommended Action

We recommend that you:

- a) **Note** that Hawke's Bay Regional Council notified the proposed Tukituki Plan Change 6 on 4 May 2013 and the Hawke's Bay Regional Investment Company lodged an application for the Ruataniwha Water Storage Scheme on 6 May 2013.
- b) **Note** that on 5 June 2013 you directed that the Tukituki Catchment Proposal be directed to a board of inquiry for a decision.
- c) **Note** that the Environmental Protection Authority, the Ministry for the Environment, and the Department of Conservation have prepared the attached Cabinet paper noting your intention to appoint the following board members to the board of inquiry for the Tukituki Catchment Proposal:
 - Justice Lester Chisholm (as chairperson);
 - Environment Commissioner Russell Howie (as member);
 - Loretta Lovell (as member);

- Alec Neill (as member);and
- Matthew Lawson (as member).

d) **Agree** that the Environmental Protection Authority contact Justice Chisholm prior to the Board of Inquiry being formally constituted to discuss procedural matters.

Yes / No

e) **Sign** the attached letter from the Minister for the Environment to the Minister of State Services seeking agreement on the use of the standing exception of fees for the board of inquiry prior to presenting the attached Cabinet paper to the Cabinet Appointments and Honours Committee.

Yes / No

f) **Note** that we do not see a need for the Crown as a whole to make a submission on the Tukituki Catchment Proposal.

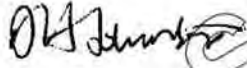
g) **Sign and Submit** the attached Cabinet paper and attachments to the Cabinet Office for consideration by the Cabinet Appointments and Honours Committee on 25 June 2013.

Yes / No



Kevin Currie
Director, Environmental Regulation
Ministry for the Environment

Date

13.6.13


Doris Johnston
Deputy Director General
Department of Conservation

Date


Sarah Gardner
General Manager, Applications and Assessment
Environmental Protection Authority

13.6.2013

Date

Hon Dr Nick Smith
Minister of Conservation

Date

Hon Amy Adams
Minister for the Environment

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fall short of my expectations in some respects		3 = Met my expectations		
4 = Met and sometimes exceeded my expectations		5 = Greatly exceeded my expectations			

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



To: Hon Amy Adams, Minister for the Environment and
Hon Dr Nick Smith, Minister of Conservation

**Potential Board of Inquiry for the Tukituki Catchment Proposal,
Hawke's Bay**

Other Dept Tracking Number:	13-B-00790	EPA Tracking Number:	ENQ-21902-NKD9MN
Date Submitted:	- 7 MAY 2013	EPA Priority:	Urgent
Security Level:	IN CONFIDENCE	Number of Attachments:	Nil
Action Sought:	Direction	Response/Signature Needed by:	10 May 2013

Ministry for the Environment Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Reviewer	S9(2)(a)		S9(2)(a)	
Responsible Manager	Natasha Tod	S9(2)(a)	04 439 7716	✓
Director	Kevin Currie		04 439 7590	

Department of Conservation Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Manager, Planning section	Guy Kerrison		(04) 494 1470	✓
Deputy Director General Policy and Regulatory Services	Doris Johnston	S9(2)(a)	(04) 471 3100	

Environmental Protection Authority Contacts

Position	Name	Telephone		1st Contact
		(cell)	(work)	
Principal Author	S9(2)(a)		S9(2)(a)	
Responsible Manager	Fay Holdom		04 474 5484	
General Manager	Sarah Gardner	S9(2)(a)	04 474 5496	✓

Executive Summary

1. On 6 May 2013, the Hawke's Bay Regional Council (the Council) requested that you call-in, under s142 of the RMA, a proposed council-initiated regional plan change for the Tukituki Catchment (Plan Change 6).
2. In parallel, the Hawke's Bay Regional Investment Company (HBRIC) lodged with the Environmental Protection Authority (EPA), under s145 of the RMA, a notice of requirement¹ and resource consent applications for the water storage and distribution aspects of the Ruataniwha Water Storage Scheme. This includes a large dam and reservoir on the Makaroro River (a tributary of the Tukituki River) and associated irrigation canal infrastructure on the Ruataniwha Plains in Central Hawke's Bay and Hastings districts.
3. In pursuit of best practice resource management the applicants will seek that the two applications be considered as one proposal and be heard by a single board of inquiry (should you decide to both accept the request for call-in of the regional plan change and direct the notice of requirement and application for resource consents to a board of inquiry for a decision).
4. The EPA briefed the Minister for the Environment on 22 March 2013 (ref (ENQ-20653-3KV01Z)), outlining the decision making role and seeking Minister's views on a potential board of inquiry. The Minister subsequently advised that, if the proposal is directed to a board of inquiry, she would like a five member board, and asked to be provided with options for both a retired High Court Judge and a current or retired Environment Court Judge. The EPA has subsequently screened potential candidates for the role of chair and members of a board should the matters be directed to a board of inquiry.
5. The EPA contacted 16 retired High Court Judges, however those Judges contacted were either conflicted, or unavailable. Four of those contacted advised that they did not wish to be considered for future boards of inquiry. Two Judges were unable to be contacted (they were either overseas, or did not reply to phone or email messages).
6. The EPA's recommended board members (Appendix One) have been selected from nominations from the Principal Environment Court Judge, local authorities and the EPA's database of board candidates. The members proposed by the EPA fulfil the requirements of sections 149J and 149K of the Resource Management Act (RMA) and possess the necessary knowledge, skills, and experience to consider matters of national significance. The relevant sections of the RMA are attached as Appendix Five.

Situation Analysis

History

7. The Council has been working on a range of solutions for the management of water resources in the Tukituki catchment since before 2008.
8. In September 2012, the Council released the "Tukituki Choices" discussion document for comment, with 164 comments received over a 5-6 week period. This document proposed four different

¹ For which HBRIC have been recently granted requiring authority status.

scenarios for land and water management in the Tukituki catchment. They included the environmental and economic benefits and costs of each scenario.

9. On 27 February 2013, the Council adopted a change to the Hawke's Bay Regional Resource Management Plan to include new provisions for land and water management in the Tukituki Catchment (Tukituki Plan Change 6), along with the "Section 32 Evaluation Summary Report" for Change 6.
10. On 20 March 2013, the Minister for the Environment approved HBRIC as a Requiring Authority in relation to the distribution of water for the Ruataniwha Water Storage Scheme. This enabled HBRIC to lodge a notice of requirement for this scheme.
11. Water management is an issue currently being discussed nation-wide, across the Land and Water Forum, iwi, and the RMA reforms. The HBRC Plan Change proposes a new way to manage water resources catchment wide, which may become a model for the rest of New Zealand. The proposed dam would be New Zealand's largest water storage dam for irrigation. The EPA considers therefore that experience in decision-making at a national level should be present on any potential board of inquiry.

The Applications

12. The Council notified a proposed council-initiated regional plan change for the Tukituki Catchment (Plan Change 6) on 4 May 2013. The Council then requested that you both call-in Plan Change 6 under s142 of the RMA on 6 May 2013. The Minister for the Environment in BN ENQ-20653-3KV01Z dated 22 March 2013 indicated that you would like our advice on this call-in request. Should you choose to call-in the plan change, s144 of the RMA requires that you do so within 5 working days of the submission period closing on HBRC's notification period (10 June 2013).
13. Plan Change 6 sets out the environmental bottom lines for all activities in the Tukituki catchment – for taking water, discharging to water and land, and now the use of the land. It sets out new water quality and allocation limits for groundwater from rivers, and increases minimum river flows to achieve specific objectives around the mauri of the river, water quality, river flows, and slime and algae levels. It also enables community irrigation, and imposes rules to ensure stock are excluded from waterways.
14. On 6 May 2013, the HBRIC lodged with the EPA, under s145 of the RMA, a notice of requirement and resource consent applications for the Ruataniwha Water Storage Scheme. These resource consents and the notice of requirement are to enable the construction, operation and maintenance of a dam and irrigation network.

Relevance of Change 5 to the Regional Policy Statement

15. We noted in our previous briefing to the Minister for the Environment (in BN ENQ-20653-3KV01Z dated 22 March 2013) that the Council is currently processing Change 5 to the Regional Policy Statement (RPS) relating to land use and freshwater management. They have indicated that the decision on this change is likely to be appealed to the Environment Court. Any such appeal is likely to be heard around the same time as any potential board of inquiry process.

16. Change 5 intends to provide enhanced guidance and direction about how future management decisions will be made in an integrated manner for the sustainable management of the region's land and fresh water resources. This includes guidance on matters that catchment-based regional plan changes will need to consider in terms of the Tukituki, and other, catchments. It also puts in place a hierarchy of values and uses for consideration on these matters.
17. Change 5 enables catchment based plan changes and identifies the primary values that require consideration in the Tukituki Catchment. Plan Change 6 is a catchment based plan change under this Change to the RPS. Therefore, should Change 5 to the RPS not pass, or be appealed and subsequently amended, this may have an effect on the provisions of Plan Change 6.
18. The RMA provides for a hierarchy of plans, meaning that a regional plan must give effect to a regional policy statement. This means that the provisions of the Regional Plan (and Plan Change 6) must give effect to the RPS. Therefore, the outcome of any appeal(s) that may be lodged for Change 5 to the RPS, may in turn require amendments to Plan Change 6. The decision on Change 5 is yet to be released, therefore the implications of any subsequent appeal cannot be determined at this time.
19. Although the applicants are requesting that both Plan Change 6 and the notice of requirement and resource consent applications are heard together as one proposal of national significance, they are not dependent on each other. Plan Change 6 can occur without the construction of the dam and irrigation network, and the dam and irrigation network could be built without Plan Change 6. Notwithstanding this, the applicant considers that hearing both the Plan Change and notice of requirement and resource consent applications together is efficient and is good practice, because a single board of inquiry will be familiar with the issues that are common to both applications.

Advice

Criteria for selecting a board of inquiry

20. If you decide that the matters are, or are part of, a proposal of national significance and direct the matters to a board of inquiry, you must appoint a board in accordance with section 149J and section 149K of the RMA. These sections of the Act require that:

- a. the board has between three and five members, one of which is a chairperson who is a current, former, or retired Environment Court Judge or a retired High Court Judge;
- b. you seek suggestions for members of the board from relevant local authorities; and
- c. you consider the need for the board to have available to it, from its members, knowledge, skills and experience relating to:
 - i. the RMA;
 - ii. the matter or type of matter that the board will be considering;
 - iii. tikanga Māori; and
 - iv. the local community.

21. Both the EPA and the Minister for the Environment (in response to BN ENQ-20653-3KV01Z dated 22 March 2013) agreed that, in relation to the type of matters a board would be determining for this Proposal, any potential board of inquiry should have the following knowledge, skills and experience available to it:
- a. Planning

- b. Water quality and nutrient management / terrestrial and aquatic ecology;
- c. Civil engineering, specifically regarding large dams;
- d. Tikanga Maori; and
- e. Hydrology.

22. In addition to the requirements of the RMA, the EPA aims to recommend a mix of board members that achieve a balance of skills, experience, gender and ethnicity.

The process for screening potential board of inquiry members

23. The EPA's screening process is designed to ensure the board meets the requirements of s149K of the RMA. The process is as follows:

- a. Compile a list of candidates for consideration following nominations:
 - of retired High Court Judges to act as Chairperson
 - from the Principal Environment Court Judge (for Environment Court Judges to act as Chairperson or Environment Commissioners as members)
 - from local authorities.
- b. EPA consults its internal database of potential candidates for board members, compiled over time from a number of sources including other government departments and nominations from local authorities.
- c. EPA staff contact candidates to advise them of the upcoming proposal, check their availability, skills, Making Good Decisions accreditation, knowledge of process and whether there is any conflict of interest that would preclude them from board membership.
- d. The EPA uses a matrix approach (Appendix Two) to identify a shortlist of potential board members that has the strongest set of relevant skills. Each candidate is assessed on their qualifications and experience for each requisite skill. These assessments are used to inform our recommendations for the strongest overall board.

Nominations from the Chief Justice for a Chairperson

24. In 2011 the Chief Justice provided the EPA with a list of retired High Court Judges who were interested and available to chair boards of inquiry. This list has been revised to include those High Court Judges who retired between 2011-2013. The EPA contacted all 16 candidates from that list, however the Judges contacted were either conflicted, unavailable or unable to be contacted. Four Judges advised they did not wish to be considered for future boards of inquiry. Therefore, the EPA is unable to nominate a retired High Court Judge for this proposal.

Nominations from the Environment Court

25. The Principal Environment Court Judge was contacted on 10 April 2013 to provide a list of available Environment Judges to act as Chairperson and Environment Commissioners as members.
26. Acting Principal Environment Court Judge Laurie Newhook has nominated Judge Gordon Whiting, a retired Environment Court Judge as a suitable chairperson. Judge Whiting has recently chaired

the Board of Inquiry into the New Zealand King Salmon proposal for aquaculture activities in the Marlborough Sounds.

27. As a District and Environment Court Judge, Judge Whiting brings extensive judicial expertise and a wide range of experience in resource management law. Judge Whiting has presided over a number of significant and varied resource management cases. Many of the cases have not only had economic impacts, but have also involved conflicting uses of public and private interests. He has chaired the Te Mihi Geothermal Power Station Board of Inquiry and the Tauhara II Geothermal Power Station Board of Inquiry.
28. We have been advised that, to assist with integrated resource management decision making on these Tukituki proposals if he is appointed to any board of inquiry, Judge Whiting will be appointed as an advisor to the Environment Court should there be an appeal lodged against Change 5 to the Council's Regional Policy Statement.
29. We note that Judge Whiting has recently been put forward as Chair of the potential board of inquiry into the Paterson-Tory Street Bridge (Basin Reserve) proposal. However, Judge Newhook has indicated he now prefers Judge Whiting for the Tukituki Catchment proposal, given its complexity. As Judge Whiting is a retired Judge he has no other Court case load, and is therefore able to dedicate himself solely to chairing the board of inquiry.
30. Judge Newhook will provide an alternate Judge nomination for the Basin Reserve proposal.
31. Acting Principal Environment Court Judge Laurie Newhook has nominated Environment Commissioner Russell Howie as an additional potential member of the potential board of inquiry for this proposal. Commissioner Howie is an engineer, and he has been involved in the design and construction of dams, irrigation schemes and the allocation of water resources. He was on the Board of Inquiry for both the Transmission Gully Plan Change, and the Transmission Gully notice of requirement and resource consent applications.

Suggested candidates from Local Authorities

32. The EPA sought nominations for potential board of inquiry members from the Hawke's Bay Regional Council, Central Hawke's Bay District Council and Hastings District Council on your behalf.
33. Hawke's Bay Regional Council provided one suggestion – Dr Brent Cowie.
34. Dr Cowie was screened by the EPA and confirmed his availability and has no actual or perceived conflicts. While Dr Cowie has the relevant experience in water resources and RMA matters, he has no previous board of inquiry experience and the EPA considered there were stronger candidates that better fitted the skills requirements and level of expertise required for this board of inquiry.
35. Central Hawke's Bay District Council and Hastings District Council provided a combined response, containing one suggestion – Rauru Kirikiri. Mr Kirikiri has experience in both Tikanga Maori and RMA matters and is recommended as a potential board member, in Appendix One.

Candidates considered but not recommended

36. The following candidates were considered for their skills and experience, and also taking into consideration gender balance and local knowledge on the board.

37.  S9(2)(a)

38. Adrienne Williams has lived in the Hawke's Bay for 35 years. She spent 12 years as an elected member on the Hawke's Bay Regional Council from 1995-2007. Adrienne has hearings experience, including for groundwater and surfacewater abstraction applications. Adrienne is not recommended as a board member due to the perceived conflict of interest relating to her previous work as Councillor, and also her periods of unavailability over the months of June-September.

39. Dr Gail Tipa is of Ngai Tahu and Ngati Kahungunu descent, and is therefore considered conflicted, as the proposal is located within Ngati Kahungunu's rohe.

40. Jenny Mauger is of Ngati Kahungunu, Rangitane and Rongomaiwahine descent and is based in Napier. Jenny is currently contracted through her employer - Te Kaiao - to the Manager Engineering, Hawkes Bay Regional Council. She undertakes cultural co-ordinator work for river management, restoration, environmental education and communications activities. Jenny is therefore considered conflicted.

Candidates from the EPA's Database and Associated Research

41. We have provided seven options for potential Tukituki Catchment board of inquiry members, in addition to the Chair. A brief outline is provided below and summarised in Appendix Two. Further information about each potential member is provided in Appendix Three.

42. The following candidates for board members of a potential Tukituki Catchment board of inquiry have confirmed their general availability and interest in the role, and have confirmed that they are not aware of any real or perceived conflicts of interest.

43. The EPA considers there are two core members of any potential board of inquiry for this proposal, Judge Gordon Whiting as Chair, and Commissioner Russell Howie. Our recommended board members are the Hon Sir Douglas Kidd, Dr James (Jim) Cooke and Alan Bickers.

Recommended board members

44. Russell Howie is an Environment Commissioner. He is a civil engineer, and has been an Independent Commissioner under the RMA. Previous roles include as the Environmental Manager for the Electricity Corporation of New Zealand. He has been involved in the design and construction of dams, irrigation schemes and in water allocation. Russell would bring RMA and engineering experience to any board of inquiry.

45. The Honourable Sir Douglas Kidd has considerable experience across a wide range of national issues, through his time as Member of Parliament, Member of Cabinet and as Speaker. Sir

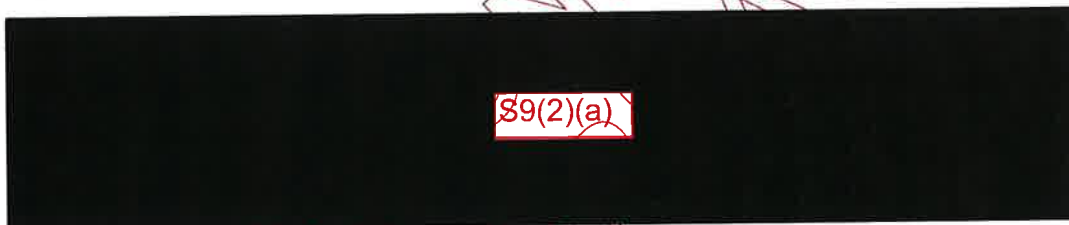
Douglas has experience in Treaty issues and Maori affairs, water issues, and aquaculture. He is currently a member of the Waitangi Tribunal. He was appointed to the National Water and Soil Conservation Authority and involved in the legislation for the Clyde Dam project. Sir Douglas has recently obtained the Making Good Decisions accreditation.

46. Dr James (Jim) Cooke has over 35 years experience in environmental sciences, including water quality and ecosystems, water storage, irrigation, and nutrient cycling. Jim has extensive experience in RMA matters, both as a commissioner and as an expert witness. Jim holds the Making Good Decisions accreditation and was appointed to the Board of Inquiry on the 'cubicle dairying' applications in the Mackenzie Basin in 2010.

47. Alan Bickers is a civil engineer with experience as a hearings commissioner on water resources and public infrastructure projects. Alan also has experience in governance, dispute resolution and mediation. He holds the Making Good Decisions accreditation, with a chairing endorsement.

Alternate board members

48.



49. Should you wish to include §9(2)(a) as a board member instead of one of the recommended board members, you may wish to consider the following:

- a. Including §9(2)(a) would increase experience in national decision-making on the board;
- b. Replacing Hon Sir Douglas Kidd with §9(2)(a) would decrease tikanga Maori expertise and water issues experience, while national level decision-making experience would be retained;
- c. Replacing Dr James (Jim) Cooke with §9(2)(a) would decrease expertise in water quality/hydrology, hearings and board of inquiry experience. Experience in national level decision-making would increase.
- d. Replacing Alan Bickers with §9(2)(a) would decrease engineering expertise and hearings/RMA experience. Experience in national level decision-making would increase.

50. Rauru Kirikiri is of Te Whanau-a-Apanui descent. He has extensive experience in Maori related issues, including Treaty Settlements, policy development, science research and the RMA through his time as resource consents hearings commissioner. Rauru has acted as hearings commissioner for a number of proposals in the Hawke's Bay Region, and would therefore bring both local knowledge and Tikanga Maori expertise to any potential board of inquiry. Rauru holds the Making Good Decisions accreditation and was suggested by the Central Hawke's Bay District Council and Hastings District Council.

51. Should you wish to include Rauru Kirikiri as a board member instead of one of the recommended board members, you may wish to consider the following:

- a. Including Rauru Kirikiri would increase Tikanga Maori expertise and local knowledge on the Board;
 - b. Replacing Hon Sir Douglas Kidd with Rauru Kirikiri would decrease experience in national level decision making. Experience in RMA matters would increase, while Tikanga Maori expertise would be retained.
 - c. Replacing Dr James (Jim) Cooke with Rauru Kirikiri would decrease expertise in water quality/hydrology, and board of inquiry experience. Tikanga Maori expertise would increase.
 - d. Replacing Alan Bickers with Rauru Kirikiri would decrease engineering and infrastructure experience. Tikanga Maori expertise would increase, and RMA/Hearings experience would be retained.
52. John Talbot has extensive experience in resource management relating to rivers, groundwater, water quality, irrigation and infrastructure. John would bring significant experience in hydrology and water resources management to any potential board of inquiry. He holds the Making Good Decisions accreditation and has hearings commissioner experience.
53. Should you wish to include John Talbot as a board member instead of one of the recommended board members, you may wish to consider the following:
- a. Including John Talbot would increase expertise water quality/nutrient management, ecology, engineering and RMA/hearings experience on the Board;
 - b. Replacing Hon Sir Douglas Kidd with John Talbot would decrease experience in both national level decision making and Tikanga Maori. Experience in water quality/nutrient management, ecology and hydrology would increase.
 - c. Replacing Dr James (Jim) Cooke with John Talbot would retain expertise in water quality/hydrology and RMA hearings. Engineering expertise and board of inquiry experience would decrease.
 - d. Replacing Alan Bickers with John Talbot would increase water quality/nutrient management expertise and RMA/hearings experience. Engineering and hydrology expertise would decrease.
54. During the candidate screening process the EPA has considered the required balance of skills, experience, gender and ethnicity on any potential board of inquiry. We consider that we have achieved the correct mix of skills and experience. The EPA screened a number of female candidates who all had good skills and experience in the key areas agreed, however there were stronger and more experienced male candidates also screened, which the EPA has recommended for this board of inquiry due to the topical and potentially contentious nature of this proposal.

Risks and Mitigations

55. Providing direction on candidates for a board of inquiry could give rise to the perception that you have already made your decision regarding the national significance of the Plan Change and application and where to direct them for a decision. To mitigate this, the EPA has been explicit in all

documentation and correspondence that the appointment of a board is dependent on your decisions regarding national significance and direction to a board of inquiry.

56. If the Proposal is directed to a board of inquiry, the EPA will ask potential members to sign a conflict of interest statement confirming no conflict exists.
57. We will continue to work with potential candidates on making sure their ongoing availability is confirmed, including re-confirming their availability immediately prior to completing any Cabinet paper relative to appointments.

Next Steps

58. Once the application has been lodged and the EPA has determined that it is complete, the EPA will provide you with its recommendation on whether the proposal is one of national significance and whether it should be referred to a board of inquiry, the Environment Court or the relevant local authorities for a decision. You are likely to receive the EPA's recommendation on 16 May 2013.
59. Should you decide to direct the proposal to a board of inquiry, the Ministry for the Environment and Department of Conservation will also provide, for your approval, a draft Cabinet paper which sets out your chosen board (as per your decisions below) for appointment to take to Cabinet. As you are also required by Cabinet minute to take your consideration of the call-in request to Cabinet you may wish to combine these papers for discussion at the same meeting.
60. Historically, you have also discussed your decisions about nationally significant proposals with your colleagues at Cabinet.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Recommended Action


We recommend that you:

a.	<p>Note that the Hawke's Bay Regional Council has requested that you call-in its Tukituki Plan Change 6, and that the Hawke's Bay Regional Investment Company has lodged a notice of requirement and resource consent applications with the Environmental Protection Authority for the Tukituki Catchment Proposal on 6 May 2013.</p>	
b.	<p>Note the Minister for the Environment's prior preference for a five member board.</p>	
c.	<p>Note the need to consider a balance of skills, experience, gender and ethnicity when considering board members.</p>	
d.	<p>Note the EPA has identified the following candidates for a board of inquiry, should you refer the Tukituki Catchment Proposal to a board of inquiry, and Indicate your acceptance of, or preference for, the make-up of that potential board:</p> <ul style="list-style-type: none"> i. <i>Chairperson</i> Retired Environment Court Judge Gordon Whiting <p>AND</p> <ul style="list-style-type: none"> ii. <i>Recommended board members</i> Russell Howie Hon Sir Douglas Kidd Dr Jim Cooke Alan Bickers <ul style="list-style-type: none"> iii. <i>Alternate board members</i> John Talbot S9(2)(a) Rauru Kirikiri 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
e.	<p>Indicate any alternative suggestions for chairperson or board member you would like investigated.</p>	

f.	Note that any agreed candidates will be included in any Cabinet Committee papers required should you decide that the proposal is one of national significance and to refer it to a board of inquiry.	
----	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--


 Douglas Birnie (P. Kern (wre))
 RM Programme Manager
 Ministry for the Environment

6.5.2013
 Date


 Sarah Gardner
 General Manager, Applications and Assessment
 Environmental Protection Authority

6.5.2013
 Date


 Doris Johnston
 Deputy Director General Policy and Regulatory Services
 Department of Conservation

6.5.2013
 Date

Hon Amy Adams
 Minister for the Environment

Date

Hon Dr Nick Smith
 Minister of Conservation

Date

Minister's feedback on quality of briefing note:	1	2	3	4	5
1 = Was not satisfactory	2 = Fell short of my expectations in some respects		3 = Met my expectations		
4 = Met and sometimes exceeded my expectations		5 = Greatly exceeded my expectations			

Appendix One – Board of Inquiry nomineesEPA Recommended board members

Nominee	Recommended by	Skill / Experience	Accredited
Recommended Chairperson -			
Judge Whiting	Environment Court	Retired Environment Judge	Yes
Recommended Board Members-			
Commissioner Russell Howie	EPA	RMA/Engineering/Dams/Hearings	Yes
Hon Sir Douglas Kidd	EPA	National level decision-making/RMA/Tikanga Maori/Hearings	Yes
Jim Cooke	EPA	RMA/Water Quality & Nutrient Management/Ecology/Hydrology/Hearings	Yes
Alan Bickers	EPA	RMA/Civil Engineering/Hearings	Yes

Alternate board members:

Nominee	Recommended by	Skill / Experience	Accredited
John Talbot	EPA	RMA/Water Quality & nutrient Management/Ecology/Civil Engineering/Hydrology/Hearings	Yes
█ S9(2)(a) █	EPA	RMA/National level decision-making	No
Rauru Kirikiri	Hastings District Council / Central Hawke's Bay District Council	Tikanga Maori/RMA/Hearings	Yes

Appendix Two – Matrix of potential board nominee’s skills

KEY:

✓ = Strong background and suitability to role

Nominee	RMA/Planning	Hearing Experience	Water Quality & Nutrient Management / Terrestrial and Aquatic Ecology	Civil Engineering (Dams)	Tikanga Maori	Hydrology	Local
Judge Gordon Whiting	✓	✓			✓		
Russell Howie	✓	✓		✓			
Hon Sir Douglas Kidd	✓	✓			✓		
[REDACTED]	✓	✓					
Dr Jim Cooke	✓	✓	✓			✓	
Alan Bickers	✓	✓		✓			
Rauru Kirikiri	✓	✓			✓		
John Talbot	✓	✓	✓			✓	

S9(2)(a)

OFFICIAL INFORMATION ACT

Appendix Three – Summary of Potential Board Member experience

Judge Gordon Whiting

Judge Gordon Whiting was appointed to the Environment Court in 1997. As a District Court and Environment Court Judge, Judge Whiting brings extensive judicial expertise and a wide range of experience in resource management law. Judge Whiting recently chaired the Board of Inquiry into the New Zealand King Salmon proposal.

Judge Whiting has presided over a number of significant and varied resource management cases, including those related to coastal issues and sensitive landscapes. Many of the cases have not only had economic impacts, but have also involved cases with conflicting public and private interests. He chaired the Te Mihi Geothermal Power Station Board of Inquiry and the Tauhara II Geothermal Power Station Board of Inquiry (the first direct application to the EPA to be heard by a Board of Inquiry).

Environment Commissioner Russell Howie

Russell Howie was appointed an Environment Commissioner in July 2001. He holds the degree of Bachelor of Civil Engineering from Canterbury University. He has been an Independent Commissioner under the RMA for the Wellington Regional Council and for the Wellington, Porirua, Hutt and Upper Hutt City Councils. Previous roles include the Environmental Manager for the Electricity Corporation of New Zealand. He has been involved in the design and construction of dams, irrigation schemes and in the allocation of water resources. He is a past president of the New Zealand Society of Large Dams and was the Project Manager for the strengthening of the Matahina Dam.

Commissioner Howie holds the Making Good Decisions accreditation and was a member of the board of inquiry that heard and decided on the Transmission Gully Plan Change and Transmission Gully resource consents and notices of requirement applications.

Commissioner Howie was nominated by Acting Principal Environment Court Judge Laurie Newhook.

The Honourable Sir Douglas Kidd

The Honourable Sir Douglas Kidd holds a Bachelor of Laws from Victoria University. He is currently employed part-time as a member of the Waitangi Tribunal, having been first appointed to the Tribunal in 2004, and now in his third term.

Sir Douglas was the Member of Parliament for Marlborough/Kaikoura from 1978-1999. He was a Member of Cabinet from 1990-1996 and during this time held a variety of portfolios including Fisheries, Energy, Labour and Maori Affairs. Sir Douglas chaired the Ministerial Advisory group on aquaculture reforms. He has experience in governance and national level decision-making. He has experience and interest in water resource issues through his time as Member of Parliament, and experience in the construction of large dams through his work on the legislation for construction of the Clyde Dam project.

Sir Douglas has recently obtained the Making Good Decisions accreditation and while he has minimal RMA board of inquiry experience, he has experience in chairing boards dealing with large and complex matters and would bring this experience to any potential board of inquiry.

S9(2)(a)

Dr James (Jim) Cooke

Jim Cooke is currently a Director at Diffuse Sources Limited. Previous roles include Project Manager at Beca Infrastructure and Research Scientist at NIWA. Jim holds a Doctor of Philosophy from Oxford University in the United Kingdom, a Master of Philosophy and Diploma in Agricultural Science from Massey University, and a Bachelor of Science from the University of Waikato. Jim has over 35 years experience in environmental sciences, including water quality and ecosystem management, water storage, abstraction and irrigation effects, nutrient cycling in aquatic systems, resource management and environmental project management. Jim has strong experience in RMA matters, including through hearings as commissioner or expert witness, and through providing advice.

He holds the Making Good Decisions accreditation and was appointed to the Board of Inquiry on the 'cubicle dairy' applications in the Mackenzie Basin in 2010.

Dr Jim Cooke would bring a high level of experience and technical expertise in water resources and ecosystem management to any potential board of inquiry.

Alan Bickers

Alan Bickers is currently self-employed. His previous roles over the past 17 years relate to the provision of project management, governance, dispute resolution and independent commissioner services. Alan was Chief Executive of Tauranga District Council from 1989-1995. Alan holds a Bachelor of Engineering (Civil) from Auckland University, a Graduate Diploma of Business Studies (Dispute Resolution) from Massey University, and is a Chartered Professional Engineer. Alan has extensive experience as Hearings Commissioner on various developments including water resources, energy generation and public infrastructure projects. Alan has particular expertise in evaluating technical issues relating to engineering. Alan is also a qualified arbitrator and mediator. These skills would be valuable to a potential board of inquiry.

Alan holds the Making Good Decisions accreditation, with a chairing endorsement, and is currently undergoing re-accreditation.

Rauru Kirikiri

Rauru Kirikiri is currently self-employed, based in Wellington. He is fluent in both oral and written Maori. Previous roles include Deputy CEO and Director of Policy at the Ministry of Maori Affairs. He currently specialises in Maori-related issues, including policy development, strategic planning, science research

project management, and also provides cultural support for Office of Treaty Settlement negotiations. Rauru has also worked as a resource consent hearings commissioner in Local Government, on developments such as wind farms, effluent discharges, wastewater treatment, subdivision, along with Water Conservation Orders on Lake Ellesmere and the Rakaia River, and the Hurunui Waiau River Regional Plan.

Rauru holds the Making Good Decisions accreditation, and would bring a high level of experience in both Tikanga Maori and resource management issues to any potential board of inquiry.

John Talbot

John Talbot is currently employed by Bowden Environmental. Prior to this he worked at Environment Canterbury for 19 years. John holds a Master of Civil Engineering from the University of Canterbury, where his research area was water resources (hydrology and groundwater). He is also a Chartered Professional Engineer. John's extensive experience in resource management includes rivers, groundwater, water quality, irrigation and infrastructure. John also has experience in policy and plan development, RMA applications and decision-making, compliance and conflict resolution, and consultation with Tangata Whenua.

John has experience as a hearings commissioner and holds the Making Good Decisions Accreditation.

John Talbot would bring a high level of experience and technical expertise in hydrology and water resources management to any potential board of inquiry.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Appendix Four – Relevant Sections of the Resource Management Act 1991

149J Minister to appoint board of inquiry

- (1) This section applies if the Minister makes a direction under section 142(2)(a) or 147(1)(a) to refer a matter to a board of inquiry for decision.
- (2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter.
- (3) The Minister must appoint—
 - (a) no fewer than 3, but no more than 5, members; and
 - (b) 1 member as the chairperson, who must be a current, former, or retired Environment Judge or a retired High Court Judge.
- (4) A member of a board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

Section 149J: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

149K How members appointed

- (1) The Minister must comply with this section when appointing a board of inquiry under section 149J.
- (2) The Minister must seek suggestions for members of the board from the local authority.
- (3) However, the Minister may appoint a person as a member of the board whether or not he or she receives a suggestion for the person under subsection (2).
- (4) In appointing members, the Minister must consider the need for the board to have available to it, from its members, knowledge, skill, and experience relating to—
 - (a) this Act; and
 - (b) the matter or type of matter that the board will be considering; and
 - (c) tikanga Māori; and
 - (d) the local community.

Section 149K: inserted, on 1 October 2009, by section 100 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).