

19 May 2011

Attention: Nassah Steed

Bay of Plenty Regional Council
PO Box 364
Whakatane

Tena koe Nassah,

Ngati Awa Further Submission to the Proposed Bay of Plenty Regional Policy Statement

This is the further submission of Te Runanga o Ngati Awa.

Ngāti Awa wishes to be heard at any hearing held for the Proposed Bay of Plenty Regional Policy Statement.

Ngāti Awa requests that a suitably qualified, experienced and independent person, familiar with Māori cultural values, including those identified in the Operative BOP Regional Policy Statement, as well as Maori protocols and te reo Māori, be appointed to any Hearing Committee.

Ngāti Awa is willing to be scheduled for hearing alongside other submitters who make similar submissions.

Further Submission Supports Previous Submissions made by Te Runanga o Ngāti Awa

This further submission supports those made by Te Runanga o Ngāti Awa on 8 February 2011.

Motiti Island

Relief Sought

List Motiti Island in the list of Ngāti Awa statutory areas contained within the compendium.

We seek confirmation that Motiti Island has been listed in the compendium as being an area of particular significance to Te Patuwai hapu of Ngati Awa. This will ensure that all consents and planning instruments proposed for Motiti are a subject for consultation with Te Patuwai hapu and Te Runanga o Ngati Awa.

Continued Support for parts of the Operative Bay of Plenty Regional Policy Statement

The operative Regional Policy Statement was developed over a period of years with the assistance of many members of the Maori regional community.

Ngāti Awa people were amongst those that contributed to the development of objectives, policies and methods of implementation aimed at addressing issues of concern to Maori.

The resulting instruments, in particular policies 5.3.2(b) (especially 5.3.29B)(iv) and Methods of Implementation in section 5.3.2(c), as well as the Māori Heritage Criteria, and other criteria provide a regional texture to section 6(e), 7(a), 8 and various other provisions in the Resource Management Act 1993 relevant to iwi planning documents.

Ngāti Awa routinely uses planning instruments consistent with policy 5.3.2(b) and the Māori Heritage Criteria and the various guidelines and explanations supporting each policy in the development of our cultural impact assessments of proposed activities and in our assessment of planning instruments for our rohe.

Our assessments are informed by Ngāti Awa people with relationships with places and resources proposed for change or development. These include hapu representatives, uri, iwi authority executive and where necessary or appropriate affiliated Maori Land Trusts or owners and neighbour iwi.

Overall this means that we make a significant investment of time and effort in the development of assessments that are provided to applicants and Council, to inform and contribute to Council decisions.

While most consent applicants are willing to cover these costs, the consent process does not provide certainty that applicants will be asked by Council to:

- Consult with Ngati Awa
- Be ready to cover the costs of consultation and the preparation of written and mandated cultural impact assessments that form the outcomes of that consultation
- Recognise that the assessments we provide contribute to councils decisions about activities sought by consent applicants

Relief Sought

Ngāti Awa strongly supports and seeks the retention of the following proposed instruments:

Objectives 12, 13, 14, 15, 16, 17 and 18 and all associated policies and methods of implementation.

Explanation

Retention of the above objectives and associated policies and methods of implementation will provide for the development of integrated processes to enable cultural impact assessments made by Māori with relationships resources, areas and taonga to contribute to Council decision-

making. This contributes to giving effect to Part II matters which are matters of national importance.

Retention will provide for many, if not all of the outcomes recommended in Ngāti Awa submissions made on the 8 February 2011.

Other Submitters

Ngāti Awa strongly opposes the following submissions relevant to matters of national importance including those in the Operative BOPRPS Appendix F and its policy, Iwi Planning Instruments, as well as Proposed Objectives, Policies and Methods of Implementation outlined above:

Submitter	Reference in their submission	Reason for Opposition
Fonterra	Page 25 item 25.0 referring to Appendix F and policy in the operative policy statement	Since 2005 Ngāti Awa has used the heritage criteria and methods not inconsistent with regional policy and planning instruments to assess six (6) separate resource consent applications lodged by Fonterra Edgecumbe. These have included consents for water take, discharge to water, operational changes for foam elimination, land irrigation of waste water and incidental activities. Without the planning instruments those assessments could not have been prepared in a timely and efficient manner. They provide confidence that the methods we have developed and utilise are robust and defensible in a decision-making process
Andrew Von Dadelszen	Page 2 Policy IW4B	While there can be some differences between iwi management plans most, if not all identify the relationships of Māori and their culture and traditions with their ancestral taonga. These are to be recognised and provided for in council decision-making. in terms of preparation of policy statements, and its contents, the wording in the RMA now requires that Councils 'must have particular regard' to these matters. In a consenting regime, section 104 (1) (c) (which is subject to Part II of the Act) also provides for Council to 'have regard' to 'any other matter the consent authority considers relevant and reasonably necessary to determine the application'. The submitter's proposition that such documents be merely 'considered' in the various decision-making processes used in Council is inadequate.
Motiti Avocadoes Ltd	Pages 3 and 4 – Iwi Management Plans and	The issues facing Motiti Island are exponentially worsening due to the lack of iwi and hapu management

	Appendix F	<p>plans for the island. While we acknowledge that MAL is experiencing significant delays in the development of cultural impact assessments for various development activities they propose for the island, this situation would be greatly improved if a hapu management plan prepared by Te Patuwai hapu and recognised as relevant by Te Runanga o Ngati Awa had been completed during the development of the Motiti District Plan. Iwi/hapu planning documents contribute significantly to regulation because they clearly outline the relationships, cultural and natural heritage provisions and administration systems used by hapu/ iwi in the assessment of proposed activities. The submitter's proposition is to either delete or significantly constrain the ability of iwi planning documents to contribute cultural impact assessments to Council decision-making. Were this to be adopted, huge backwards steps would be taken in the region.</p>
TrustPower Ltd	Page 14 Submission 12 – Matters of National Importance	<p>Section 5 (1)(c) of the RMA defines 'sustainable management' to mean managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while.. (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment'. We note that the word 'avoiding' comes first in this clause. We believe it does so because it is important that consents decisions are developed by prioritising assessments of what should be avoided, then what can be remedied before one assesses what adverse effects might be mitigated by consent conditions imposed on any consent granted. This means that giving priority to avoiding adverse effects of regionally significant infrastructure on matters of national importance is an important policy to retain in the regional policy statement.</p>

Integrate Implementation of Regional Policy and Planning Instruments

Relief Sought

- a) *Retain section 2.5, Objectives 10, 11 and 12 and all policies and methods of implementation appearing in Table 5 of the Proposed BOPRPS.*
- b) *Ensure staff at Council are trained in the integration of methods of implementation relevant to policies and planning instruments.*
- c) *Demonstrate that operational procedures are consistent with methods of implementation, policies and objectives, particularly those operations used in the consents section at regional council.*

Explanation

We appreciate that all sections within Council constitute the Council as a whole. We understand that policy, objectives and methods of implementation are intended to be consistently given effect in order to achieve objectives and implement policy.

The reality is that the consents section at Council has often either failed to or inconsistently gives effect to Councils existing methods of implementation in respect to recognition and provision for RMA s6(e) matters and NACSA2005 s49 matters also.

The means by which iwi planning documents are regarded is dealt with similarly at present.

With the anticipated adoption of important regional policy and planning instruments contained within the Proposed Regional Policy Statement, there is a potential for this situation to either continue or improve. If there is no training or operational change to ensure objectives, policies and methods of implementation are routinely used in the process of consent assessments and decision-making, the situation will continue and most likely worsen.

Recognition that Ngāti Awa has operated in ways consistent with the instruments in the operative BOPRPS, and will **continue to** use instruments consistent with those that it supports in the Proposed BOPRPS, is necessary and important to understanding these submissions.

Essentially, we strongly believe that after 6 years of employing the existing tools Ngāti Awa can demonstrate the effectiveness and efficiency that operative and proposed planning instruments can achieve when wielded by the tangata whenua to provide cultural impact assessments and responses to contribute to Council decisions.

What is critical is that tangata whenua must not be required or expected to:

- prepare assessments at their cost
- rely on consent officers to make those assessments and recommendations arbitrarily and autonomously
- Be on the receiving end of an integrative process that involves, but was developed without them.

Geothermal

Geothermal objectives are generally supported however we note that reinjection of geothermal fluids drawn for electricity generation does not feature as a method by which sustainable management of the geothermal resource is to be achieved.

To that end we submit that further provisions are required to ensure the proposed policy, objectives and methods of implementation are consistent with and point to regulation within the Regional Water and Land Plan.

Relief Sought

We seek policy in the proposed BOPRPS that requires reinjection where practicable and appropriate to the production method, field characteristics, and safety considerations.

Te Runanga o Ngāti Awa supports (in principle) the submissions made by Environment Waikato and seeks further discussion on those tools and their implications on the Kawerau Geothermal Field and its ongoing management.

Te Runanga o Ngāti Awa supports the proposed listing of:

Kawerau Development Geothermal Systems (Geothermal Management Group 4)

This is consistent with Ngāti Awa and Putauaki Trust comments to the Draft BOP Energy Strategy.

Moutohora Protected Geothermal Systems (Geothermal Management Group 1)

This is consistent with the Tapui Tokotoru Conservation Management Plan prepared by Te Tapatoru a Toi/ Joint Management Committee comprising the Department of conservation, Ngāti Awa and members of the community.

Land Management

In an earlier comment on the Draft BOPRPS Ngāti Awa made the following comments.

'Land Management

Other Issues to Recognise in the RPS

There is a large proportion of Māori land in the Bay of Plenty region¹. However there appears to be limited understanding in Council of Māori land tenure, constraints and issues faced by Māori land and its owners. For example when processing applications for aerial discharge of 1080 regional council accepts as evidence of written consent from the Māori land owners, consent forms that have been signed by the lessee forestry companies that have commissioned the 1080 drop. There is no recognition that the lessee is not the land owner and therefore ineligible to sign off. And there can be a lack of clarity as to who from the Māori land owners groups is eligible to sign off on such documents. Greater understanding of Māori land tenure and

¹ The recent report *Te Ripoata Ohanga Māori mō Te Waiariki: Report on the Māori Asset Base in the Waiariki Economy – An Economic Growth Strategy for a Sustainable Future*, Te Puni Kokiri 2009 indicates at least 31 percent of the land area of the BOP is owned by Maori

management issues would advantage Councils, the Māori regional community, Māori land in the region and Māori economic development.

Māori land and reserves are vitally important to Māori social, economic, cultural and environmental sustainability and development.

Multiple ownership of Māori land as tenants in common can affect Māori decision-making about land management and its sustainable development.

In cases where Māori land is under-utilised, adverse environmental effects, such as a proliferation of pest species, under-management of waterways or, from a social and economic perspective, a 'failure to thrive', can result.

Māori aspirations for land use, papakainga and other developments can be hindered by Council's lack of understanding of the specific issues affecting Māori land, its management and its tenure.

Council consideration and consultation on these issues with the wider Māori regional community is promoted.

The Regional Policy Statement can include policy that recommends Councils improve their understanding of issues affecting Māori land, its management and its owners.

Sustainable growth and development, particularly in the eastern region, can be positively affected by a greater understanding of the issues faced by Māori land and its owners'.

In the preparation of these further submissions we note and support the submissions made by the Aggregates and Quarrying Association which submitted that planning instruments for the regulation of the use of minerals, aggregates and activities such as quarrying in the region should continue to appear in the regional policy statement.

Ngāti Awa therefore provides a further example of the issues outlined in our comments to the draft BOPRPS.

There are four quarries in the eastern Bay of Plenty that are leased from Ngāti Awa owners. These are:

- | | | |
|-------------------------------|---|--|
| Otipa and Omutu Quarries | – | land owned by Omataroa Rangitaiki No 2, leased to Quarry operators |
| Awakeri Quarry | - | land owned by Omataroa 10 – leased to JW Swap |
| Te Tiringa Quarry Contractors | - | land owned by Ratahi Whanau Trust – Leased to Waitohi contractors |

While we acknowledge that the Regional Water and Land Plan can, at the Councils discretion impose consent conditions requiring remediation and stormwater controls to be imposed on the operator, there is no guarantee that council will use its discretion to require these important avoidance and remediation mechanisms to be employed at the time applications for consent for such activities are lodged.

While Ngāti Awa is able to respond to invitations to assist landowners, and recommends and makes submissions to ensure remediation of quarries and stormwater management plans are contained in consent conditions and leases, other people throughout the region may not have similar support.

Environmental issues arise when no remediation or stormwater controls are in place at times when quarries and leases expire.

Our concern is that these issues might be inherited by the landlord, which on multiply owned land owned as tenants in common, might create longstanding environmental issues for which no-one is responsible – but which would have been apparent at the time consents were granted to allow the activity that creates the adverse effect.

Relief Sought

We submit that the submissions of the Aggregate & Quarries Association are supportable, subject to the following additional provisions which request that:

Stormwater management plans and remediation plans for quarries be required by consent condition rather than remain in the current regulatory regime of being a discretionary or restricted discretionary activity, the standards for which point to but do not explicitly require ongoing management plans for remediation and stormwater management to be required by consent condition.

Should Minerals Policy be in the Regional Policy Statement?

Ngāti Awa agrees that the Regional Policy Statement is the right place for policy, objectives and methods of implementation that cross reference to those within the Regional Water & Land Plan.

There are cross-over's in the functions of regional and district councils in their management of earthworks activities and in terms of their respective biodiversity responsibilities.

Clear identification of policy, objectives and integrated methods of implementation in the regional policy statement will assist the integrated implementation of regional and district planning instruments for the region, districts, for consent holders and for the landlords

Kia ora

Beverley Hughes
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for Chief Executive

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