**Report to Strategy and Policy Committee**

**Date:** 5 June 2018

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**Subject:**

**Update on Thames-Coromandel District Council and Hauraki District Council**

**Mangrove Management Bill**

**Section:** A (Committee has delegated authority to make decision)

**Purpose**

1. To update on the progress of the Thames-Coromandel District Council and Hauraki District Council

Mangrove Management Bill (‘Local Bill’).

2. To seek approval from the Committee to provide responses to the matters raised by officials advising the

Select Committee considering the Local Bill.

**Executive summary**

3. At its February 2018 meeting the Committee endorsed the Waikato Regional Council (WRC) submission

to the Thames-Coromandel District Council and Hauraki District Council Mangrove Management Bill.

Council’s position on the Local Bill is one of neutrality.

4. The Parliamentary Select Committee considering the Local Bill has received submissions and convened a

public hearing in Thames. Government officials advising the Select Committee convened a meeting with

the district councils and WRC on 29 May 2018. Following that meeting the officials sought responses

from the councils on seven key matters as detailed in Table 1 of this report and discussed thereafter.

Councils’ statutory role in this process is one of a submitter.

5. Staff recommendations to the Committee (detailed below) are to support the key matters identified with

the exception of Matter i) which seeks to introduce responsibilities for WRC to lead the preparation of

any mangrove management plan developed under the Local Bill. Staff support council participating in this

process but not to be the lead agency.

6. Staff recommendation is that Matter i) not be supported on the basis that the intent of the Local Bill is to

establish a mangrove management regime independent of WRC involvement and to remove WRC

statutory decision making responsibilities for mangrove management in parts of the Thames-Coromandel

and Hauraki districts, and as such the process is better led by those agencies who will have ultimate

implementation responsibility.

**Staff Recommendation:**

1. That the report *‘Update on Thames-Coromandel District Council and Hauraki District Council Mangrove*

*Management Bill’* (Doc # 12582904 dated 5 June 2018) be received.

2. That the Committee approve the following WRC positions in to the key matters identified in the

following table by the officials advising the Governance and Administration Select Committee considering

the Local Bill

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**Matter No. Matter detail (as worded by officials) WRC position:**

i WRC be invited to join the district councils as jointly

responsible for preparing a mangrove management

plan.

**Supported in part.**

WRC participates in the

preparation of the management

plan but does not take a lead

role.

ii That the mangrove management plan is prepared

under the Local Government Act 2002.

**Support**.

Consistent with WRC position

endorsed in WRC submission to

Local Bill.

iii The mangrove management plan is designed to

address mangrove management in specific areas (i.e.

Whangamata) but would also need to be applicable to

other coastal areas as required.

**Support.**

iv Introduce some for on ministerial oversight; i.e.

Minister for Conservation approval so to ensure the

mangroves plan is compliant with the New Zealand

Coastal Policy Statement.

**Support.**

v Introduce a sunset clause to provide for the review of

the mangroves legislation (in 5 years) and/or lapsing.

So to constrain any damaging long term effect.

**Neutral.**

vi Clarifying the relationship between the mangroves

management plan prepared under the Bill and the RMA

– so that a mangrove management plan could become

part of the Regional Coastal Plan without unintended

effects that might impact on, or conflict with, statutory

functions.

**Support.**

Consistent with WRC position

endorsed in WRC submission to

Local Bill.

vii As part of the relationship with the RMA, avoiding

ability for Environment Court to review or override the

mangrove management plan.

**Support.**

3. That the Committee ask the Director Science and Strategy to provide a written response to the Select

Committee officials consistent with WRC position on matters i) – vii).

**Previous reports and council position**

7. At its February 2018 meeting the Committee endorsed a submission by WRC to the Thames-Coromandel

District Council and Hauraki District Council Mangrove Management Bill (Doc # 11775432 (Committee

report) and Doc # 11630356 (Council submission)).

8. Council’s position on the Local Bill is one of neutrality consistent with Committee recommendation

SPC17/59. The WRC submission on the Local Bill notes that:

a. Council supports the district councils’ intent through the Local Bill to improve the efficiency

and effectiveness of mangrove management by the district councils

b. Council holds a neutral position on retaining or removing mangroves and cannot form a

‘remove or retain’ position ahead of undertaking robust and inclusive consultation as part of

the Regional Coastal Plan review (noting mangroves is a prioritised topic to be addressed).

c. Council is strongly of the view that retention or removal of mangroves needs to be assessed

on a case by case basis, having regard to the individual circumstances and values of each

harbour and estuary as well as localised community views.

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9. Since the introduction of the Local Bill in July 2017 WRC has paused its work on progressing the mangroves

topic as part of the Regional Coastal Plan review because a plan change outcome is likely to be actively

opposed by the district councils and aligned stakeholders, and could be removed by the Local Bill. Further

it was considered potentially confusing for local communities with dual processes occurring, one a Local

Bill before Parliament and the other a plan change.

**Background**

10. On 16 March 2018 the Parliament Governance and Administration Select Committee convened in Thames

to hear public submissions on the Local Bill. Some 40 submitters were heard with approximately 25 per

cent supporting the intent of the Local Bill, particularly its application to potentially improve the efficiency

and effectiveness of mangrove management at Whangamata.

11. The Select Committee received more than 170 written submissions – the majority opposing the Local Bill.

General themes from those opposing the Local Bill were:

a. The ecological value of mangroves in supporting biodiversity values

b. The role of mangroves in mitigating coastal erosion caused by waves, flooding and storm surge

c. Concerns that a Local Bill, if passed, could set a precedent for local resource management

matters being addressed outside of the existing resource management legislation.

12. Some submissions were highly critical of WRC, particularly in regard to the process, costs, time duration,

and mangrove removal methods as part of exercising the resource consents at Whangamata. Other

submissions praised the approach of WRC in that, through preparing, negotiating and exercising the

resource consents, adverse effects of mangrove removal had been largely avoided.

13. Following the hearing the Select Committee advised it would consider and scrutinise submissions ahead

of releasing its report on 22 June 2018.

**Engagement with government officials**

14. The Select Committee is advised on the Local Bill by officials from the Ministry for Environment and

Department of Internal Affairs.

15. At the direction of the Select Committee the officials convened the district councils and WRC on 29 May

2018 to discuss the range of options identified as:

a. Recommend the Local Bill as worded.

b. Recommend an amended Local Bill.

c. Examine processes available under the Resource Management Act (RMA) to amend the

mangroves provisions of the Waikato Regional Coastal Plan (RCP).

16. At the outset of the meeting district councils sought that the focus of discussions be on the Local Bill

options only – specifically an amended version of the Local Bill. In doing so they acknowledged the desire

for any mangrove management plan developed under the statutory provisions of a Local Bill to have some

formal relationship to the RMA through linkage to the Regional Coastal Plan and/or some form of

ministerial oversight noting the Minister of Conservation holds responsibilities for the coastal marine area.

17. The district councils also sought that, through amending the Local Bill, placing responsibilities on WRC in

leading preparation of any mangrove management plan, recognising the skills and expertise of WRC and

its statutory functions for managing effects of activities in the coastal marine area.

18. It was acknowledged that providing the local communities with certainty around how mangroves will be

managed is essential.

19. Officials recognise that the ‘best case scenario’ timeframes under a Local Bill or an RMA plan change

process would be similar and that the Select Committee remain open to considering RMA options.

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20. Current resource consents held by WRC for mangrove removal in Whangamata will have been fully

discharged ahead of either ‘best case scenario’ timeframes.

**Feedback sought by officials**

21. Following the 29 May meeting officials have now sought feedback from the councils on the key matters

that may inform Select Committee thinking on an amended Local Bill option. These matters are detailed

in the table below.

*Table 1: Matters identified by officials for council response*

**No. Matters identified by officials for response:**

i WRC be invited to join the district councils as jointly responsible for preparing a mangrove

management plan.

ii That the mangrove management plan is prepared under the Local Government Act 2002.

iii The mangrove management plan is designed to address mangrove management in specific areas

(i.e. Whangamata) but would also need to be applicable to other coastal areas as required.

iv Introduce some form of ministerial oversight; i.e. Minister for Conservation approval so to ensure

the mangroves plan is compliant with the New Zealand Coastal Policy Statement.

v Introduce a sunset clause to provide for the review of the mangroves legislation (in 5 years) and/or

lapsing. So as to constrain any damaging long term effect.

vi Clarifying the relationship between the mangroves management plan prepared under the Bill and

the RMA – so that a mangrove management plan could become part of the Regional Coastal Plan

without unintended effects that might impact on, or conflict with, statutory functions.

vii As part of the relationship with the RMA, avoiding ability for Environment Court to review or

override the mangrove management plan.

22. Each matter in Table 1 is discussed below.

**Matter i) - WRC be invited to join the district councils as jointly responsible for preparing a**

**mangrove management plan.**

23. The district councils now invite WRC to join them, through an amended Local Bill, as a council jointly

responsible for preparing any mangrove management plan acknowledging that WRC has skills and

expertise to assist the preparation of a mangrove management plan.

24. The Local Bill was prepared by the district councils as a means to establish a mangrove management

regime independent of WRC involvement and to remove WRC statutory decision making responsibilities

for mangrove management in parts of, or all of, their districts. This intent was reiterated in the first reading

speech from the Local Bill sponsor, Coromandel MP Scott Simpson, following his introducing the Local Bill

to Parliament in July 2017.

25. Press releases on the Local Bill from MP Simpson’s office state:

*“This is an important local initiative aimed at resolving the issue of mangrove management by allowing*

*Thames Coromandel and Hauraki District Councils to formulate their own management plans without*

*involving the Waikato Regional Council.”* (22 February 2018)

26. The WRC submission on the Local Bill sought WRC representation on any mangrove management

committee formed to prepare a mangrove management plan under the Local Bill. This was on the basis

that WRC wishes to ensure its catchment management and statutory functions are not compromised

through a mangrove management plan and that any expertise and information held by WRC can be

effectively provided to the plan making committee.

27. Staff advice is that further elevation of WRC responsibility (beyond that sought it its submission) is not

warranted and, if WRC were to be ‘leading’ the development of a mangrove management plan, it would

potentially be viewed as problematic and counterproductive by those stakeholders with longstanding

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mistrust and animosity towards WRC over management of mangroves, particularly at Whangamata, and

as voiced at the Select Committee hearing.

**Matter ii) - That the mangrove management plan is prepared under the Local Government Act 2002.**

28. The Local Bill as drafted proposes that a mangrove management plan be prepared under the ‘special

consultative procedure’ provisions of Section 83 of the Local Government Act 2002. The rationale for this

is to provide certainty through an expedited the planning process and limited appeal rights compared to

those available under the RMA.

29. The WRC submission did not challenge the use of Section 83 for the district councils to prepare and

approve a mangrove management plan. The WRC submission sought amended wording so that the plan

making committee must ‘consider’ the views expressed or received during the special consultative

procedure.

30. Staff advice is that use of the Local Government Act 2002 in this regard is supported.

**Matter iii) - The mangrove management plan is designed to address mangrove management in**

**specific areas (i.e. Whangamata) but would also need to be applicable to other coastal areas as**

**required.**

31. The preparation of mangrove management plans for specific areas where mangrove management

through existing processes continues to be problematic (e.g. Whangamata Harbour as noted by

submissions) would provide certainty for those communities and stakeholders.

32. Continued WRC work on developing and implementing harbour and catchment plans, and other sediment

management strategies, across the Coromandel has seen community agreement on how mangroves will

be managed in the catchment-wide context. WRC would be concerned if larger scale mangrove

management plans were proposed that might would unwind mangrove management approaches and

other catchment management initiatives already in place and agreed to by the community and

stakeholders.

33. Through its previous joint work in developing a district-wide mangrove seedling consent application in

2014 WRC and TCDC are aware that there a numerous iwi with harbour interests and views on mangrove

management. A site specific mangrove management plan would enable particular iwi views to be

collected, considered and incorporated more effectively that a larger scale plan.

34. Staff advice is that WRC seek that any mangrove management plans be site specific.

**Matter iv) - Introduce some form of ministerial oversight; i.e. Minister for Conservation approval**

**so to ensure the mangroves plan is compliant with the New Zealand Coastal Policy Statement.**

35. Ministerial oversight or ministerial approval of any mangrove management plan would give the

community confidence and certainty on where overall responsibility for activities under the Local Bill

rests.

36. Relevant ministers could be the Minister for Local Government (given the Local Bill proposes a mangrove

management plan be prepared under the Local Government Act 2002), or the Minister for Conservation

as minister responsible for resource management decisions in the coastal marine area.

37. If oversight or approval was to be with the Minister for Conservation then the New Zealand Coastal Policy

Statement (NZCPS) may provide an existing framework under which to prepare a mangrove management

plan and meet the district councils’ desires for a mangrove management plan to link to the RCP.

38. Staff advice is that WRC support some form of ministerial oversight and approval of any mangrove

management plan.

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**Matter v) - Introduce a sunset clause to provide for the review of the mangroves legislation (in 5**

**years) and/or lapsing. So to constrain any damaging long term effect.**

39. The intent of inserting a sunset clause into the Local Bill is for the legislation to end or lapse after a

specified period. This was proposed by the officials presumably to constrain the extent of any ongoing

and unintended impacts of mangrove management activities under the Local Bill.

40. Staff advice is one of neutrality in that the rationale and inclusion of a sunset clause is a matter for the

Select Committee.

**Matter vi) - Clarifying the relationship between the mangroves management plan prepared under**

**the Bill and the RMA – so that a mangrove management plan could become part of the Regional**

**Coastal Plan without unintended effects that might impact on, or conflict with, statutory functions.**

41. The intent of this item was to enable any standalone mangrove management plan developed under the

Local Bill to be incorporated within the Regional Coastal Plan as a means to provide further certainty and

confidence to communities and stakeholders.

42. If the Local Bill was enacted, except for areas and activities provided for in a mangrove management plan,

WRC would retain statutory responsibilities under the RMA relating to other activities within the coastal

marine area. District councils and government agencies (e.g. Department of Conservation) also hold

statutory functions over activities in coastal areas and associated catchments.

43. The WRC submission highlighted a key concern that, without due consideration of the catchment system

and responsibilities of the various agencies, the management of mangroves as proposed under the Local

Bill has the potential for consequential and possibly unintended effects which may impact on, or conflict

with, other statutory functions of the regional and district councils, Department of Conservation and

others.

44. The provisions of the current RCP would require amending to enable a mangrove management plan to be

incorporated. Such an amendment would be a relatively straightforward noting that existing method

17.10.3 of the RCP already allows for the incorporation of standalone plans such as harbour and

catchment plans. The RMA provides for the inclusion of documents by reference in plans and proposed

plans in accordance with Part 3 of Schedule 1 to the RMA.

45. Staff advice supports the linking of a mangrove management back to the RCP. However, while the RCP

can clarify some statutory responsibilities (of WRC and others), WRC is strongly of the view that the Select

Committee provide clear guidance on where the scope of a mangrove management plan end and

responsibilities under the RCP begin.

**Matter vii) - As part of the relationship with the RMA, avoiding ability for Environment Court to**

**review or override the mangrove management plan.**

46. All councils are keen to provide certainty and confidence to communities and stakeholders on local

mangrove management. The councils acknowledge that, given the collective knowledge and expertise

available to prepare a mangrove management plan, and ministerial oversight proposed in Matter 4 above,

it would be unnecessary for the Environment Court to review or override a plan.

47. Officials note that there are existing RMA options that exclude Environment Court oversight, such as the

Streamlined Planning Process.

**Next Steps**

48. The Select Committee is expected to release its report on 22 June 2018 including recommendations on whether or not the Local Bill should proceed further.

49. If the Local Bill does not proceed further staff will immediately recommence plan review work on the

mangroves topic within the Thames Coromandel and Hauraki districts including community engagement.

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**Assessment of Significance**

50. Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a

decision in accordance with the recommendations is not considered to have a high degree of significance.

**Legislative context**

51. The Local Bill is a proposed law only. Should the Select Committee decide that progressing the Local Bill

is warranted, it must pass second and third readings in Parliament before it can be enacted.

**Policy Considerations**

52. To the best of the writer’s knowledge, this decision is not significantly inconsistent with nor is anticipated

to have consequences that will be significantly inconsistent with any policy adopted by this local authority

or any plan required by the Local Government Act 2002 or any other enactment.

**Conclusion**

53. Government officials advising the Select Committee considering the Thames-Coromandel District Council

and Hauraki District Council Mangrove Management Bill met with the district and regional councils on 29

May 2018. Following that meeting the officials sought responses from the councils on seven key matters

as detailed in Table 1 of this report.

54. Staff advice to the Committee is to support the key matters identified with the exception of Matter i)

which seeks to introduce responsibilities to WRC to jointly lead the preparation of any mangrove

management plan developed under the Local Bill consistent with WRC’s submission on the Bill, staff

recommend WRC participate in this processes, but does not lead.

55. The WRC position in this regard through its submission on the Local Bill was to seek representation on any

committee responsible for preparing a mangrove management plan.

56. Matter i) is supported in part, as the intent of the district councils through the Local Bill is to establish a

mangrove management regime independent of WRC involvement and to remove WRC statutory decision

making responsibilities for mangrove management in parts of their districts, it is recommended that WRC

participates in, but does not lead, this process.

**Attachments**

1. Committee report on the Waikato Regional Council submission to the Thames-Coromandel District Council

and Hauraki District Council Mangrove Management Bill (Doc # 11775432 and 11630356).

2. Thames-Coromandel District Council and Hauraki District Council Mangrove Management Bill

(Doc # 10609004).

**References**

Media release from Office of Hon. Scott Simpson, Member of Parliament for Coromandel (22 February 2018):

https://scottsimpson.national.org.nz/mangrove\_submitters\_to\_be\_heard\_in\_thames

Local Bill first reading speech (9 August 2017):

https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\_20170809\_20170809\_28