

Progress Report regarding Resource Management function to Ministers on Ministerial Land Use Inquiry Response

Purpose

1. This report provides an update on my progress as the Resource Management Advisor for Tairāwhiti, including my preliminary findings and recommendations.

Executive Summary

2. Following the Ministerial Inquiry into Land Use, I was appointed as Resource Management Advisor and tasked with assessing Gisborne District Council's (GDC) resource management functions - policy planning, consenting and compliance, monitoring and enforcement (CME) and providing advice and recommendations to the Minister for the Environment.
3. To progress this review, I met with GDC, including the Mayor, Chief Executive and staff through technical workshops, to review their resource management functions. I also met with iwi and stakeholders (including the forestry sector) to understand the local context. My preliminary findings are based on information available to me as of 1 December.
4. Resource management functions are essential to regulating land use, ensuring resilience and managing risk from land uses in Tairāwhiti. Effective regulation and regulatory implementation will reduce the impacts of further severe weather events (including the effects arising from woody debris and sediment flows). There is also an opportunity to use regulatory levers to support and streamline woody debris cleanup. While regulation is important, it also needs to be joined up with non-regulatory solutions, incentives and implementation. The Facilitator's report will expand on these.
5. The issues facing Tairāwhiti are wider than simply forestry harvesting. The nature of the geology, terrain, and land use mean that there will continue to be sediment and woody debris discharged into waterways in the region, even with improved resource management functions. Any long-term solution will need to address land use in Tairāwhiti as a whole and align regulatory and non-regulatory levers and incentives. Long term land use changes that seek to manage retreat from sensitive areas like riparian margins will assist, but this will take time, in some instances decades to be resolved.
6. I have concerns about the current state of GDC's resource management functions and their proposed approach to plan changes. While there is some good work underway to improve the consenting and CME functions, there are further opportunities to make sure they reflect industry best practice. GDC's resource management functions rely on a significant increase in capacity and capability which is unlikely to be realised in the short term and during periods of increased harvesting. Recruiting skilled staff in a remote region is an ongoing challenge for GDC.

Planning Priorities

7. GDC are currently preparing two plan changes to improve the management of forestry in the Tairāwhiti Resource Management Plan (TRMP). I have significant concerns about the evidence base, analysis, engagement and recent hasty pace of this work, which creates risk of ineffective regulations. GDC have indicated that it had intended for a plan change to occur in 2023, which has meant that it has not been able to undertake a robust cost-benefit analysis, nor an environmental and economic analysis. Iwi and the forestry sector have raised concerns about a lack of engagement to date. GDC is taking steps to improve its evidence base and engagement, however these require further work before a plan change can be notified. At this stage the information GDC has sent for review lacks necessary detail to justify a plan change. We are aware work is ongoing to complete necessary cost benefit analysis and engage with the

forestry sector and other key stakeholders such as iwi, towards a workable plan change. This is likely to continue for some months, longer than initial GDC timelines, however, offers better chance for iwi and forestry sector to engage meaningfully in this plan change work.

8. GDC is also currently reviewing their Regional Policy Statement (RPS) and needs to give effect to national direction under the Resource Management Act 1991 (RMA). This is a significant task. Careful consideration needs to be given to aligning the RPS review and the plan changes given these are being progressed in parallel.
9. I consider that there is a need to review the capabilities of GDC to complete these planning tasks given the resource shortages and the lack of clear engagement with the key stakeholders to date. Some form of independent oversight or supervision of the review of the TRMP and the forestry plan changes may be warranted, to provide confidence about these processes to the key stakeholders and the community.
10. Based on my preliminary findings of GDC's policy planning function I propose to continue to monitor and engage with GDC as it:
 - a. effectively prepares a plan change, to improve the management of forestry in the TRMP, that is underpinned by evidence and informed by iwi, community and industry stakeholders' perspectives and aligns with GDC's work to revise the RPS;
 - b. reviews the capabilities of GDC to complete its planning tasks;
 - c. utilises Ministry for the Environment and Ministry for Primary Industries resources and tools to provide accurate geospatial information, to better inform future land use decision-making;
 - d. undertakes a regulatory gap analysis to make sure the planning instruments reflect national direction and address any regulatory shortfalls and gaps.

Consenting Priorities

11. GDC has indicated it is improving its resource consenting processes. This includes prioritising catchments based on the degree of risk, reviewing its standard consent conditions relating to forestry activity and incorporating national direction. I have reviewed the revised consent conditions and will provide feedback on these to GDC to strengthen these in due course. These revised conditions will only apply to new consents and existing consents will need to be dealt with through CME functions.
12. While GDC has taken positive steps to improve its consenting function, further work is necessary to ensure GDC has a robust and fit-for-purpose consenting process. I propose to continue to monitor and engage with GDC as it:
 - a. engages with the forestry sector to ensure resource consent applications are of an acceptable quality;
 - b. shares updated consent conditions with the forestry sector to improve their performance;
 - c. develops and implements internal quality assurance and sign-off processes;
 - d. implements national direction and TRMP policies and rules into consenting processes.

Compliance, monitoring and enforcement priorities

13. Effective CME functions are essential because they are the mechanism by which the forestry sector will be held to account, and GDC will need to continue to address issues arising from existing consents which will not be captured by amendments to the TRMP or new consent conditions.
14. Following Cyclone Hale, GDC commissioned an external review of its CME functions and is taking steps to implement the findings of that review. This includes establishing a dedicated Forestry Compliance team, creating a Compliance and Enforcement Strategy, creating standard operating procedures and quality assurance processes.
15. While GDC has taken meaningful steps to improve the CME function, I propose to continue to monitor and engage with GDC as it:
 - a. implements CME actions to ensure they align with industry best practice and national direction;
 - b. undertakes ongoing engagement with the forestry sector to enable best practice compliance, monitoring and enforcement procedures;
 - c. increases staffing for forestry CME and explores using accredited independent partners to monitor compliance as a means of easing resource pressures on GDC.

Resourcing priorities

16. GDC will require substantial increases in staffing and expertise to implement upgrades to resource management function. Internal Council reviews have suggested significant numbers of roles, some have been filled internally but then backfilling is required. At present it is not totally clear on the total number of additional resources required, but roles identified by reviews are over 100 and some have been filled internally or via known operators/contractors. Given the large number of staff required and due to the remote location of Tairāwhiti, it is unlikely to be achievable. GDC will need to make trade-offs between its resource management functions and other council functions.
17. As a potential mitigation to this, the regional council Chief Executives have offered their support by allowing access to staff within the wider council network. To date this has been used immediately following Cyclone Gabrielle but not in an ongoing manner. I understand that the GDC Chief Executive has reached out to the regional council Chief Executives to progress this work. It is likely this will need to be implemented alongside the use of external consultants, remote working solutions and more effective use of technology and tools. I propose to:
 - a. work with the Facilitator, GDC Chief Executive and regional council Chief Executives to support GDC to address critical staffing gaps.

Co-ordination of woody debris clean up

18. Developing and implementing all resource management solutions will be reliant on effective and enduring partnerships with iwi and engagement with (and buy-in from) the forestry sector. Forestry companies and landowners have a significant role to play in resource management in Tairāwhiti. There is a need to balance trade-offs including community, economic and environmental imperatives. There is an opportunity to use regulatory levers to support and streamline woody debris cleanup.

19. I propose to:
- a. work alongside the Facilitator to ensure iwi, and industry stakeholders' perspectives are meaningfully reflected in GDC's resource management functions
 - b. encourage GDC to take a co-ordinated approach to management of woody debris across resource management functions;
 - c. encourage GDC to develop an effect communication approach so that the community is informed of GDC's woody debris cleanup programme.

Conclusion

20. It is clear GDC is taking steps to address current challenges, however at current pace and noting resourcing constraints the region remains exposed to future weather events and the ongoing challenges of managing woody debris. Significant upgrades are required across the resource management functions and the Council will require support from Government and other regional councils. Significant engagement with the key stakeholder and the community is required to clearly identify the issues and develop long term solutions to the issues that are confronting Tairāwhiti.
21. As noted above, the issues facing Tairāwhiti are wider than simply forestry harvesting. The nature of the geology, terrain, and land use mean that there will continue to be sediment and woody debris discharged into waterways in the region, even with improved resource management functions. Any long-term solution will need to address land use in Tairāwhiti as a whole and align regulatory and non-regulatory levers and incentives. Long term land use changes that seek to manage retreat from sensitive areas like riparian margins will assist, but this will take time, in some instances decades to be resolved. It is vital that these challenges are communicated to the community.
22. I have annexed further information and I am available to meet to discuss this report and my proposed actions at your convenience.
23. I will report back to you with a further update in early 2024. At that point I will provide an assessment of whether GDC is adequately carrying out its resource management functions and any recommendations for future interventions.

Annexure 1 – Recommended actions

Annexure 2 – Supporting information

Annexure 1 - Recommended actions

To inform my final report, I propose to continue to monitor and engage with GDC as it:

Planning

- a. effectively prepares plan change(s), to improve the management of forestry in the TRMP, that is underpinned by evidence and informed by iwi, community and industry stakeholders' perspectives and aligns with GDC's work to revise the RPS;
- b. reviews the capabilities of GDC to complete its planning tasks;
- c. utilises Ministry for the Environment and Ministry for Primary Industries resources and tools geospatial information, to inform future land use decision-making;
- d. undertakes a regulatory gap analysis to make sure the planning instruments reflect national direction and address any regulatory shortfalls and gaps;

Consenting

- e. continues to engage with the forestry sector to ensure resource consent applications are of an acceptable quality;
- f. shares updated consent conditions with the forestry sector to improve performance;
- g. develops and implements internal quality assurance and sign-off processes;
- h. implements national direction and TRMP policies and rules into consenting processes;

Compliance, monitoring and enforcement

- i. implements CME actions outlined with external review to ensure they align with industry best practice and national direction;
- j. undertakes ongoing engagement with the forestry sector to enable best practice compliance, monitoring and enforcement procedures;
- k. explores using accredited independent partners to monitor compliance as a means of easing resource pressures on GDC;

Resourcing

- l. works with the Facilitator, GDC Chief Executive, and regional council Chief Executives to address critical staffing gaps;

Co-ordination of woody debris clean up

- m. works alongside the Facilitator to ensure iwi, and industry stakeholders' perspectives are meaningfully reflected in GDC's resource management functions;
- n. takes a co-ordinated approach to management of woody debris across resource management functions;
- o. develops an effective communication approach so that the community is informed of GDC's woody debris cleanup programme.

Annexure 2 – Supporting information

Policy Review

1. GDC has told me the TRMP is out of date. It does not reflect community expectations or reflect new mapping and identification tools. GDC consider this to be the root cause of their current resource management issues.
2. GDC is proposing two plan changes relating to the management of forestry activities in the TRMP, intended to be notified in mid-2024.
3. The plan changes will focus on:
 - a. coupe harvesting/maximum harvest area rules; and
 - b. identifying Overlay 3B (purple zone) land, review of Land Overlay framework and review of wider land use provisions (including farmland) in the TRMP to better manage erosion.
4. These changes aim to improve how the TRMP manages the effects of plantation forestry activities on private property, public infrastructure, and the freshwater and coastal environments. These changes will also make sure the TRMP aligns with the region's Regional Policy Statement (RPS) and other TRMP reviews including freshwater management.
5. The forestry plan change aims to align with the RPS and other TRMP reviews including freshwater management. This forestry plan change is being carried out at pace to address environmental degradation and respond to community concerns about the effects of forestry in Tairāwhiti.

Evidence base

6. GDC commenced work on plan change options from early 2023 and commissioned independent experts to develop an issues and options report immediately following Cyclone Hale. The report was provided in draft to Council prior to the MILU submission and finalised on 28 June. It identified a suite of options to better manage the effects of forestry practices. This included an additional Overlay 3B spatial layer ('purple zone') which covers the most erosion prone land. GDC has engaged Habilis to undertake a four wellbeing assessment (social, economic, cultural and environmental wellbeing) of the plan change options. GDC is proposing a wellbeing survey that is a critical part of the four wellbeing assessment.

Engagement

7. GDC has undertaken some engagement with the forestry sector, iwi and the community. However, it still needs to engage more widely with tangata whenua. Reservations have been expressed by the forestry sector and iwi around the rushed nature of the plan change, lack of supporting material and lack of opportunities to provide input. It is essential that if a plan change progresses it has an appropriate evidential basis and meaningful engagement with key stakeholders.
8. GDC is currently looking to refine their engagement approach and undertake further analysis as part of the plan change as a result of this feedback, including consideration of an alternative approach using Catchment Forestry Management Plans. GDC have told me it plans to meet with Tairāwhiti Economic Action Plan (TEAP) and Rau Tipu Rau Ora (RTRO) steering groups, Eastland Wood Council, Federated Farmers and iwi. GDC also plan to undertake three workshops with regard to the Uawa Catchment Forestry Masterplan as a test case of the alternative approach.

9. Recent preliminary discussions with the forestry sector have raised the potential for establishing a Forestry Catchment Plan approach to managing forestry issues in Tairāwhiti. In my opinion, there is merit in this option which needs to be explored further with all key stakeholders.
10. Whether Overlay 3B (which is the tool GDC intends to map those areas that are unsuitable for forestry) is likely to offer an effective risk-management approach that complements Tairāwhiti's broader socio-economic objectives will need to be considered as part of any future plan change. The 3B overlay has the potential to be a blunt tool that will take between 50,000 to 80,000 ha out of production. Any plan change will require a comprehensive assessment as to whether site-specific risks can be remediated or whether there are other options (including both regulatory and industry-led initiatives) that can be used in isolation or as part of a package to effectively manage forestry risks (such as the Forestry Catchment Planning option).

Preliminary findings

11. I consider the case for additional plan change(s) needs to be well considered, having regard to a robust evidential basis. Engagement with the forestry sector, iwi and the community is vital. The forestry sector has a critical role to play in managing the effects of forestry. As such, I am supportive of GDC's work to improve its engagement approach and undertake further analysis before notifying a plan change.
12. Further evidence and analysis is required. This includes work to quantify the direct and indirect costs of GDC's proposed plan changes so that GDC fully understands the economic and environmental trade-offs. Mapping "purple" land (land most susceptible to erosion) will also help to inform the plan change and future land use planning in the region. There is an opportunity for government agencies to work with GDC on this, including through funding or expertise-sharing. An example of this occurring is through use of shared geospatial data/analysis to underpin local GIS mapping. This has commenced during my review and is a useful example of support and joint work possible across agencies.
13. At this stage I am wary of GDC using a fast-track plan/streamline change process for the forestry plan change(s) on the basis that it will have significant sector implications. It could be seen as setting a precedent for other regions.
14. It is important that the community understands the wider issue confronting Tairāwhiti in terms of land use change and soil conditions. An effective communication strategy for the wider Tairāwhiti community is also important. There are significant land use issues and significant existing woody debris and vulnerable forestry stands in the hills which means that even with a plan change(s) there will be ongoing woody debris issues for Tairāwhiti. It is important that the community understands the wider issue confronting Tairāwhiti in terms of land use change and soil conditions.
15. As with the other GDC resource management functions, drawing staff with appropriate expertise to the region will be an ongoing challenge for GDC in advancing the plan change(s).
16. The regulatory levers are just one tool that will be required to address the significant land use and water quality issues that are confronting Tairāwhiti. There will need to be alignment between regulation and incentives to address these issues.
17. I consider that there is a need to review the capabilities of GDC to complete these planning tasks given the resource shortages and the lack of clear engagement with the key stakeholders to date. Some form of independent oversight or supervision of the review of the TRMP and the forestry plan changes may be warranted, to provide confidence about these process to the key stakeholders and the community.

Resource Consenting processes

18. GDC has noted there are a range of resource consenting challenges. GDC has implemented or has work underway to address these challenges. However, there are still outstanding matters which are discussed below.
19. GDC noted there are challenges in dealing with legacy resource consents in terms of the land use challenges that have been identified in Tairāwhiti. For example, some existing resource consents have requirements for replanting once harvesting is completed. However, some of these replanting requirements are in areas that are no longer deemed to be suitable for replanting due to proximity to waterways and the instability of the land topography. GDC is endeavouring to work through these issues with the forestry sector, although, it remains a live risk in term of implementation and compliance.
20. GDC expressed concerns with how the NES-CF will be implemented in the region. It noted the 'exemption' under section 69(4) of the NES-CF that allows slash to be left on hillsides where it is unsafe to remove cuts across local progress made with foresters and would be extremely difficult to monitor and enforce. Further evidence is being sought regarding the challenges of gathering slash on land over 25 degrees and the ability of foresters to opt out of gathering this material.
21. GDC indicated that forest companies lodging resource consents are not regularly using experts for drafting applications. This is resulting in up to 90% of applications being returned as incomplete at least once prior to being accepted for lodgement. GDC advised it is starting to engage more with the forestry sector to provide greater guidance on the expectations for preparing a robust resource consent application. I support this approach of regular engagement with the industry.
22. GDC has proposed a number of enhancements and changes to its consenting processes in response to the events of Cyclone Gabrielle. These include:
 - a. Reviewing their standard resource consent conditions for forestry consents;
 - b. Prioritising catchments by their degree of risk (based on slope and geology), using GIS mapping and past weather events;
 - c. Tightening engineering review of consent applications.

Preliminary findings

23. While GDC is seeking to ensure that an efficient and robust resource consenting team and system is operating, resourcing (including staffing) will be a significant challenge for GDC. I have reviewed the revised consent conditions and will provide feedback on these to GDC to strengthen these based on effects-management, certainty and enforceability, and practicality and flexibility.
24. In addition to the system and processes changes GDC has proposed, it is vital that ongoing quality assurance checks of the resource consenting process are put in place. This, together with ongoing engagement with the forestry sector, can contribute to addressing issues such as the quality of applications, standard consent condition implementation and resourcing during harvest periods. GDC should be encouraged to provide a mechanism for ensuring external parties can feed into a continuous improvement process on the standard conditions to deliver incremental improvement.

25. The role and input of iwi into the resource consenting function needs to be considered further. There is also an opportunity to draw on other consents team best practice from other regions, and the Regional Steering Groups (RSG) have made offers to do so.
26. I support GDC's approach of circulating copies of their standard conditions prior to granting a resource consent. GDC is now taking steps to provide updated consent conditions to the forestry sector, however, it is unclear if this is consultation or delivery? It would also be valuable to provide standard conditions to consultants and the public (if requested). Setting up a conditions section on the resource consent team web page should be encouraged, providing information with details about standard conditions and their application was viewed as a good idea. This could include the provision of examples of the types of conditions that might be imposed on typical applications along with the potential costs, to raise awareness about the total costs involved in obtaining consent.
27. Further work will be required to understand any implications of the TRMP having more stringent standards than the NES-CF, and how these policy standards are reflected in consent conditions.

Compliance, Monitoring and Enforcement functions

28. GDC appears to have a robust compliance function and regularly make effective use of abatement notices and prosecutions under the RMA. There are several prosecutions underway and GDC is also investigating 22 forests which may be subject to enforcement action, including 11 of which have commenced since Cyclone Gabrielle. This has created some challenges for working collaboratively with the forestry sector in terms of monitoring and compliance.
29. GDC is concerned that the low fines issued through prosecution (approximately \$1 million across the successful prosecutions) do not encourage compliance and are viewed as an operating cost.
30. GDC views the NES-CF as a useful tool to support compliance because it will move most forests into a consented framework and enable more effective monitoring and cost recovery (including formalised pre-start and pre-harvest meetings). However, GDC has expressed concerns around the NES-CF's exemption for removal where it is not safe to do so.
31. GDC noted that a key risk or gap in the current regulatory framework is the legacy of planting along waterways. With controls now in place on harvesting in those areas there may be the risk that they are abandoned and will be subject to windfall and result in adverse effects on waterways.
32. GDC have, or are in the process of, implementing several process and/or system improvements for CME functions. GDC has engaged Amanda de Jong (Brighta Consulting), a very well qualified independent consultant with expertise in CME functions, to review GDC's CME activities, considering the legislative requirements, national context, and best practice.
33. The Brighta Report included the following recommendations, which GDC is implementing:
 - a. Set up a dedicated CME Forestry Team (the team is not yet at full capacity but work is underway to increase resourcing);
 - b. Develop a Compliance and Enforcement Policy and Strategy, and a risk-based approach for resource consent and permitted activity monitoring;
 - c. Create standard operating procedures and templates for CME functions, including formal enforcement decision-making guidance;

- d. Introduce a quality assurance process; and
- e. Undertake engagement with iwi/hapū to explore ways of working for CME delivery.

Preliminary findings

- 34. Like with resource consenting, staffing and expertise will be an ongoing challenge for GDC.
- 35. It is also vital that ongoing quality assurance checks of the CME process are put in place, together with ongoing engagement with the forestry sector. Provided the systems and processes that have been identified are in place, then initial indications are that the CME team is implementing steps to better manage the CME processes in a suitable manner. Quality assurance checks could help build community trust and confidence in GDC's CME functions and the performance of the council.
- 36. The use of independent accredited parties to monitor conditions on behalf of consent holders (as opposed to parties contracted directly to GDC) warrants further consideration as a solution to GDC's resourcing challenges. Such specialists would need to be accredited through a recognisable organisation. GDC would have to retain final say about who is an acceptable party and would need to ensure that an auditing system is in place to randomly audit the identified parties and sites. It would also need to include mechanisms to revert to more regular council monitoring and enforcement) where parties are not meeting their obligations.